



CITY OF LEADVILLE

800 HARRISON AVE.
LEADVILLE, CO 80461

REGULAR COUNCIL MEETING AGENDA

Wednesday
July 5th, 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 <u>not</u> 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 <u>on the agenda</u> , public input will be heard prior to a vote being taken on the matter.
6:15 pm	6.	Consent Agenda:
		A. Approval of June 6th, 2023 Minutes
		B. Approval of June 20th, 2023 Minutes
6:25 pm	7.	Presentations and Discussions:
		A. City Administrator's Report
		B. Dark Skies Ordinance Discussion
		C. Colorado Municipal League Conference Take-Aways
6:45 pm	8.	Action Items:
		A. Flaming Foliage Relay Temporary Use Permit
		B. Ordinance No. 2, Series of 2023: Title 17 - Zoning, Definitions/Table of Uses Amendments - 2nd reading
		C. Ordinance No. 3, Series of 2023: Title 17 - National Historic Landmark (NHL) District Amendments, Demolition, Applicability, Site Visits - 2nd reading
7:45 pm	8.	Council Reports
	9.	Mayor's Report
	10.	Public Meetings Planner
	11.	Public Comments
8:00 pm	12.	Adjournment

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



CITY OF LEADVILLE

800 HARRISON AVE.
LEADVILLE, CO 80461

REGULAR COUNCIL MEETING MINUTES

Tuesday,
June 6, 2023

6:00 P.M.

Council Chambers & Zoom

1. **Call to order** of regular council meeting at 6:04 p.m.
2. **Roll call:**
 - a. **Present:** Mayor Labbe, CM Hill, MPT Greene CM Forgensi/Thomas, CM Lauritzen, CM Luna-Leal, and CM Grant
 - b. **Absent:**

Staff Members Present: Deputy City Clerk Hannah Scheer, Administrative Assistant Lori Tye, City Administrator Laurie Simonson, Planning Director Chapin LaChance, Interim Chief of Police Ken Chavez

3. **Approval of the agenda:** CM Luna- Leal **moved** to approve the agenda as amended, and CM Hill **seconded**. All present were in favor.

Agenda Revisions: Add City Administrator's report as 6A

4. **Housekeeping Matters:**
 - a. Community Clean-Up will be 6/11 at 12:00 p.m.
 - b. CM Grant would like to add a discussion regarding the uses of 809 Spruce to an upcoming agenda
 - c. CM Luna-Leal would like to discuss the housing crisis and how it affects people with set income and how people are being pushed out of the community they grew up in.

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

- a. **Kristi Galarza**
 - i. Lake County has the highest amount of cost burdened renters in the State
 - ii. 63% of renters in Leadville pay more than 30% of their income in rent per month
 - iii. Lake County will run 2 Town Halls in June about Short-Term Rentals
 1. 6/15 6:00-8:00 p.m. - Twin Lakes
 2. 6/21 6:00-8:00 p.m. - Freight
- b. **Steve Prestash**
 - i. Said the Pledge of Allegiance - many people in the room joined in
 - ii. Concerned about the dual roles several people hold in Leadville
 - iii. Stated that standards for public officials have declined
 - iv. Is concerned about the community promoting prosperity for realtors versus residents

c. **Jackie Whelihan**

- i. Invited community to join event called “Heading West” on June 13th at 11:00 a.m.

d. **Tim Bergman**

- i. Hazard Mitigation Plan has been funded and the request for proposal will be sent out soon. \$750 cash match and \$520 in-kind match.

6. Presentations and Discussions:

a. **City Administrator’s Report:**

- i. Street Department has finished the parallel parking signs at the Post Office, the diagonal parking lines have been removed. There is a Leadville Police Department squad car parked as an example of the change for the public. The Street Department and the Interim Chief have been spreading the word and flyers went up at the Post Office today in English and Spanish.
- ii. Signage for the new City parking lots has been completed. The lot behind Western Hardware - one sign on each end, and the Community Banks Parking lot with a sign in the alley and on each end of the lot. 5th and Harrison also has a new sign showing the direction of public parking.
- iii. Street Department also raised the signs for electric vehicle parking because they were too low for people to see from the street.
- iv. Government contracting workshop available for small businesses at the Colorado Mountain College campus:
 1. 6/8 8:00 a.m. - 5:00 p.m.
 2. 6/9 8:00 a.m. - 1:30 p.m.
- v. Animal Shelter has a new washer and dryer that the Street Department picked up and installed for them. Planned Pethood contributed \$1600 toward their new washer and dryer.
- vi. Police Department Town Hall will be June 12th at the Freight at 5:30 p.m. There will be an ad in the paper, there are flyers are around town, and the Community Service Officers are passing out flyers.
- vii. The Mayor and City Administrator attended the Colorado Municipal League legislative updates meeting in Salida.
 1. The bill enacting the plastic bag fee had an error that didn’t require the fee to be remitted to the City until 2024 but it has been corrected.
 2. House Bill Right of First Refusal passed - there will be a discussion to be had regarding whether or not Leadville wants to participate in that.
- viii. The Mayor and City Administrator attended Climax 2nd quarter community update on May 24th. 70 vacancies at Climax currently being filled by contractors.
- ix. Parklet construction is near completion and landscaping will start in June, ribbon cutting sometime in July. Thanked Hope for Homes to help making sure it gets completed. CM Forgeni asked to make sure the sidewalk follows Americans with Disabilities Act accommodations.

b. **Leadville Boom Days Temporary Use Permit Discussion**

- i. Kristof is the acting president
- ii. No changes this year other than the “gun show” which has been cancelled.
- iii. Specific language regarding St. Vincents and the Emergency room will be added.

- c. **City Support for the Leadville Lake County Regional Housing Authority to Apply for Proposition 123 Funding on Behalf of the City of Leadville**
- i. Jackie Whelihan gave a presentation as to why opting in to Proposition 123 would be a good opportunity for Leadville and asked for support from the Mayor and City Council for her and her team to apply for the funding on behalf of the City.
 - ii. City Council and the Mayor offered their support.
- d. **City Support for Lake County Build a Generation to Apply for a Grant to Cover the Cost of Updating the Needs Assessment for the Leadville Lake County Regional Housing Authority and an Inclusionary Zoning Report for the Housing Coalition**
- i. Kristi Galarza gave a presentation as to why a grant opportunity from USDA Rural Development would be a good opportunity for Leadville and asked for support from the Mayor and City Council for her and her team to apply for the grant on behalf of the City.
 - ii. CM Hill, CM Luna-Leal and CM Lauritzen acknowledged the need for a needs assessment update. There hasn't been a needs assessment since 2018.
 - iii. Potential to revisit inclusionary zoning conversation.
 - iv. City Council and the Mayor offered their support.
- e. **Discussion Regarding Mayor Salary**
- i. CM Lauritzen would like the Mayor to have some oversight and assist in setting policy, is in favor of increasing the salary.
 - ii. CM Luna-Leal agreed with CM Lauritzen and added that he would like to see the position have a salary that can afford anyone the opportunity to hold the Mayoral position as a job. Added if the City Council as the ability to hire/fire the City Administrator, he would like the Mayor position to be part-time. Would also like to see some type of system for employees to report goings-on at City Hall to City Council.
 - iii. MPT Greene favors the "weak-Mayor-system," in which the Mayor is a representative of the City, it is a part-time position, and would leave the salary more or less as it is with the potential for a small adjustment. Added she would like to see the funds go to hired positions.
 - iv. CM Grant echoed MPT Greene and stated she would like to clarify whether the position will be part-time or full-time.
 - v. Mayor Labbe said there is a State Statute that sets the terms of part or full time.
 - vi. City Administrator commented that the Mayor's duties are set in statute and in our code. How much someone applies themselves to the position depends on the person.
 - vii. CM Hill would like to keep the salary the same, as we have embraced a "weak-Mayor-system" in hiring a City Administrator. Would like to see more investment in paid positions. Stated that he thinks the Mayor should be more of a "ribbon-cutter, baby-kisser, hand-shaker" type of position.
 - viii. CM Forgensi shares other council members sentiment that they have made several investments in the City with new positions and other investments in "human capital." If the City Administrator is running day-to-day operations, the Mayor should be a more part-time position. Would like to see someone dedicated to the community. Is in favor of keeping the salary the same with potential increase from a "cost-of-living" standpoint.
 - ix. Benefits are available to the Mayor.
 - x. A salary change would need an ordinance passed.

7. Action Items:

a. Resolution No. 10, Series of 2023: Declaring a Vacancy and Appointment to Ward 3 Seat

No actual motion took place

CM [redacted] moved to approve the Resolution No.10, Series of 2023: Declaring a Vacancy and Appointment to Ward 3 Seat, CM [redacted] seconded. All present were in favor.

City Council voted privately and appointed Rebecca Thomas with a vote of 4 in favor as CM Forgeni’s replacement on City Council until 11/7/2025.

Rebecca Thomas was sworn in as a Council Member by Mayor Labbe and took her seat.

b. Summer Nights at Zaitz - Music in the Park Temporary Use Permit

CM Hill moved to adopt Summer Nights at Zaitz - Music in the Park Temporary Use Permit; CM Luna-Leal seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill	*			

c. Ordinance No. 3, Series of 2023: An Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code Concerning the Regulations Governing the City’s National Historic Landmark Overlay District- 1st Reading

CM Luna-Leal moved to adopt Ordinance No. 3, Series of 2023: An Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code Concerning the Regulations Governing the City’s National Historic Landmark Overlay District- 1st Reading; CM Grant seconded. Second reading scheduled for 6/20/2023.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill	*			

d. **Resolution No. 11, Series of 2023: A Resolution Amending and Extending the Leadville Railyard Subdivision Improvement Agreement**

CM Luna-Leal moved to **Resolution No. 11, Series of 2023: A Resolution Amending and Extending the Leadville Railyard Subdivision Improvement Agreement**; CM Hill seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant		*		
CM Thomas	*			
CM Hill	*			

8. **Council Reports:** None

9. **Mayor’s Report:**

- a. Golden Burro received a National Historic Plaque

10. **Public Meetings Planner:** None

11. **Public Comments:**

a. **Steve Prestash**

- i. Read a quote from a New Yorker article regarding conflicts of interest.

Adjournment: 9:38 p.m.

APPROVED this 5th day of July by a vote of in favor against, abstaining, and absent.

CITY OF LEADVILLE, COLORADO

ATTEST:

By

Deputy City Clerk

DRAFT



**REGULAR COUNCIL
MEETING MINUTES**

**Tuesday,
June 20, 2023**

6:00 P.M.

Council Chambers & Zoom

1. **Call to order** of regular council meeting at 6:01 p.m.
2. **Roll call:**
 - a. **Present:** Mayor Labbe, Thomas, CM Lauritzen, CM Luna-Leal, CM Grant and MPT Greene (via Zoom at 7:15 p.m.)
 - b. **Absent:** CM Hill

Staff Members Present: Deputy City Clerk Hannah Scheer, City Administrator Laurie Simonson, Planning Director Chapin LaChance, Human Resources Director Erin Lusin, Chief Dailey, Interim Chief Chavez, Animal Shelter Managers Caitlin Kuczko and Jenna Geldreich, Street Department Director Tony Medina, Finance Director Dawna Schneiter, and acting as City Attorney, Evin King
3. **Approval of the agenda:** CM Lauritzen **moved** to approve the agenda, and CM Luna-Leal **seconded**. All present were in favor.
 - a. **Agenda Revisions:** None
4. **Housekeeping Matters:**
 - a. CM Luna-Leal commented on the Spruce St. house, the management of the property and believes the City should not manage it.
5. **Public comments for items not on the agenda:**
 - a. **Steve Prestash**
 - i. Said Pledge of Allegiance – would like it said at the beginning of each meeting.
 - ii. Commented on the multiple conflicts of interest between the City and County
 - iii. Commented on the ethics and morals of the community and the people that run the City and County.

6. Consent Agenda:

CM Grant voted to **approve** the minutes of May 16, 2023; CM Luna-Leal **seconded**. All present were in favor. REVISIONS: None

7. Department Reports:

a. City Administrator's Report:

- i. 809 Spruce – Put out a Request for Proposal for a management company. There was one published in October 2022 and again last week. Michelle Meroney has been contacting different property management companies to gauge interest. They are hopeful to secure a property management company by the first week of July. City Administrator Simonson also went over the matrix criteria regarding who would qualify to live in the house.
- ii. It's event season – The Leadville Heavy Half and the Pride Parade went well, the Street Department and the Police Department is great making sure everything was safe and prepared for both events.
- iii. The Street Department finished putting up the flower boxes prepared by Main Street. The Mayor thanked both departments.
- iv. There is a new Request for Proposal for a new city attorney. Our current attorney's office does not have the capacity to continue to service Leadville. The deadline for proposals is 7/7/23 and there will be a selection by 8/1/23. The City Council will select and interview the candidates.
- v. The Town Hall for the Police Department went well. There was food served and words from the Mayor and Interim Chief Chavez. The public commented on values, vision, and what we could do better. The position description is being finalized. There will be a hiring committee to select the new Chief.
- vi. Cyber Security – 85% completion for cyber security training. Phishing test emails have been sent to employees. Additional training will come in July.

Department heads gave their monthly reports.

CM Lauritzen **moved** to pay the bills, CM Grant **seconded**. All present were in favor.

8. Action Items:

a. Leadville Boom Days Temporary Use Permits

CM Grant **moved** to approve the Leadville Boom Days Temporary Use Permit, CM Thomas **seconded**. All present were in favor.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill				*

b. Resolution No. 12, Series of 2023: A Resolution Opting in to the Rural Jump Start Program

CM Luna-Leal **moved** to adopt **Resolution No. 12, Series of 2023: A Resolution Opting in to the Rural Jump Start Program**; CM Lauritzen **seconded**.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill				*

c. Resolution No. 13, Series of 2023: A Resolution Confirming the Terms of Office for Members of the Leadville Urban Renewal Authority Board.

CM Grant moved to adopt **Resolution No. 13, Series of 2023: A Resolution Confirming the Terms of Office for Members of the Leadville Urban Renewal Authority Board**; CM Luna-Leal seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill				*

d. Motion to Reschedule the Second Reading of the Title 17 - Zoning, Definitions/Table of Uses Amendments to July 5, 2023

CM Grant moved to **Reschedule the Second Reading of the Title 17 - Zoning, Definitions/Table of Uses Amendments to July 5, 2023**; CM Luna-Leal seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill				*

e. Motion to Reschedule the Second Reading of the Title 17 - National Historic Landmark (NHL) District Amendments, Demolition, Applicability, Site Visits to July 5, 2023

CM Luna-Leal moved to **Reschedule the Second Reading of the Title 17 - National Historic Landmark (NHL) District Amendments, Demolition, Applicability, Site Visits to July 5, 2023**; CM Thomas seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe	*			
CM Grant	*			
CM Thomas	*			
CM Hill				*

9. Public Comments:

- a. Steve Prestash
 - i. Stated that developers are a “hostile invasion”
 - ii. Leadville Urban Renewal Authority cost him extensively
 - iii. Alarmed that the new council member seems to be affluent and has 2 residences
 - iv. Is paying storage fees to hold the remnants of his business

10. Public Meetings Planner:

- a. 7/5 City Council meeting: CM Grant and CM Luna-Leal will not be available
- b. The County is having a meeting regarding short-term rentals at the Freight on 6/21
- c. Colorado Municipal League conference is 6/25-6/28 – Mayor, City Administrator and Deputy City Clerk will be attending
- d. The Army Band is playing on Friday 6/23

11. Mayor’s Report:

- a. Hazel Miller gave a great performance, she is a wonderful entertainer
- b. The flowers are out on Harrison – thanked the Street Department and Main Street for their efforts
- c. The Army Band is playing on Friday 6/23

12. Council Reports:

- a. CM Luna-Leal
 - i. Would like a citizen’s oversight committee for the Police Department that has a genuine influence. Denver has one, and it helps to form a system of trust and add a civilian perspective. Suggested this conversation should be a public meeting.

Adjournment: 7:53 p.m.

APPROVED this 5th day of July by a vote of in favor against, abstaining, and absent.

CITY OF LEADVILLE, COLORADO

ATTEST:

By

Deputy City Clerk



AGENDA ITEM #8A

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: July 5th, 2023

SUBJECT: TUP for run.Colorado Relays, LLC to host the Flaming Foliage Relay

PRESENTED BY: Lori Tye

- ORDINANCE
 RESOLUTION
 MOTION
 INFORMATION

- I. **REQUEST OR ISSUE:** Temporary Use Permit for run.Colorado Relays, LLC to host the Annual Flaming Foliage Relay on September 8th & 9th, 2023 from 8:00 pm Friday until 6:00 am Saturday. Runner route will enter Leadville on Highway 91 from Copper Mountain, they will run on Mineral Belt trail through town to Elm/McWethy Dr. then to Turquoise Lake.

The event was approved in 2022 for a multi-year (3 year) permit, but ownership of the event has changed. Nothing about the actual event has changed and new applicant is requesting a multi-year (3 year) permit.

- II. **BACKGROUND INFORMATION:** 165-mile team running relay from Idaho Springs to Buena Vista. The route is divided up into 30 legs with a runner exchange at the end of each leg. The route would pass through Leadville on the Mineral Belt Trail with a runner exchange at the Lake County High School. Will be limited to a maximum of 150 teams; only one person on a team will be running at a time.

17.64.020 General requirements for a temporary use permit.

- E. *Approval Criteria. A temporary use permit may be issued to the applicant only upon a finding that all of the following criteria are met:*
- 1. The owner of the property on which the use is proposed consents in writing to the issuance of the permit; **The City is the owner and gives consent upon approval by City Council.***
 - 2. The use is allowable in the zone district; **"recreational and sporting events" use is allowed in all zoning districts.***
 - 3. The referring agencies have indicated no concerns or requested no conditions for approval, or the applicant has provided to the satisfaction of the planning official or city council, as the case may be, that all conditions for approval will be satisfied and the permit is issued subject to satisfaction of such conditions; **Referring agencies have noted concerns and approval will include all conditions of referring agencies.***
 - 4. The use will not substantially impair the appropriate use of or adversely affect adjoining property or the neighborhood; **The event is held along the Mineral Belt Trail, which is an appropriate location for this activity, separated from the local streets.***

5. The use will not alter the essential character of the district in which the subject property is located; **The use will not alter the character; it embraces what the Mineral Belt was designed for.**

6. The use will not adversely affect public health, safety or welfare; **The proposed recreational and sporting event use will promote public health, safety and welfare.**

7. The use will not result in an undue concentration of such temporary uses upon or near the subject property so as to adversely affect public health, safety or welfare, or alter the essential character of the district in which the subject property is located, or substantially impair the appropriate use of or adversely affect adjoining property or the neighborhood; **The proposed recreational and sporting event use will not.**

8. The use is in compliance with the objectives, policies and other provisions of this title or other city regulations, ordinances or policies. **Recreational and sporting event use is an allowed temporary use in all zoning district for up to a two (2) week period, so the proposed temporary use is in compliance with the zoning regulations.**

17.64.010 - Allowed when

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

TABLE 4

E. Recreational and sporting events	All districts	2 weeks
-------------------------------------	---------------	---------

Agency referrals:

All City agencies have responded/approved with the following comments:

Health Department noted "if there is any food service or aid station, they need to reach out for additional approval."

Lake County will also be approving this event.

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

IV. **LEAGAL ISSUES:** N/A

V. **STAFF RECOMMENDATION:** Consider and review Temporary Use Permit Application for run.Colorado Relays, LLC to host the Annual Flaming Foliage Relay on September 8th & 9th, 2023 from 8:00 pm Friday until 6:00 am Saturday. Note this event was approved for a three (3) year permit last year, but ownership/applicant has changed, so new approval is needed.

VI. **COUNCIL OPTIONS:** Approve, Approve with Conditions or Deny

VII. **PROPOSED MOTION:** I move to approve the Temporary Use Permit for run.Colorado Relays, LLC to host the Flaming Foliage Relay from 8:00 pm Friday until 6:00 am Saturday on September 8th & 9th, 2023, with the attached Findings. Said approval being good for three (3) years, or through 2025.

VIII. **ATTACHMENTS:**

- Complete Temporary Use Permit application, with venue map
- Agency approvals
- Findings

CITY OF LEADVILLE

Temporary Use Permit for run.Colorado Relays, LLC to host the Flaming Foliage Relay, Friday September 8th and Saturday, September 7th, 2023

FINDINGS:

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

City of Leadville

800 Harrison Avenue
Leadville, Colorado 80461
719-486-2092, Fax 719 486-1040

Email: admins@leadville-co.gov www.cityofleadville.com

Temporary Use Permit Application (Event)

A **Temporary Use Permit** is required for any organized activity involving the use of, or having impact upon, **public property, public facilities, parks, sidewalks, paths, trails, streets or other public areas** or the **temporary use of private property in a manner that varies from its current land use**, that lies within the boundaries of the City of Leadville. This application does **not** apply to nor will it be reviewed by any state or federal entity; this is the applicant's responsibility.

Impact is defined as: *Any closure, impedance, damage, destruction, abnormal wear and tear, interference or use of any public facility, property, roadway, trail, structure, ingress, egress or business function that causes extraordinary or unusual expense, or deters or detracts from other duties for any governmental agency within the City of Leadville, Colorado.*

All **Event Permit applications** are handled through the Director of Administrative Services office. After the applicant completes the Application and attaches any required documents, it is to be returned to the Director of Administrative Services. Applications are available on line at www.cityofleadville.com. They can be printed and faxed or emailed back to the City.

Reasons that your application may be denied are:

- **Agencies may not have the resources to dedicate to your event,**
- **Your event may be deemed as too intrusive to the community,**
- **Your event may be deemed as inappropriate for the community or**
- **Your event may be deemed to be too destructive to the community.**
- **Other reasons may be expressed in the denial.**

Acceptance of your application should in no way be construed as final approval or confirmation of your request. You will be notified if your event requires any additional information, permits, licenses or certificates. During the initial application screening process you will be given time to provide us with all pending documents (e.g. certificate of insurance, secondary permits, etc.). All documentation must be received before a Special Event Permit will be issued.

Permit applications must be received no later than thirty (30) days prior to the actual date of your event and may be submitted as early as one year before your event. **Information from your permit application is considered public information** and may be used in developing the calendar of community events or reviewed by the public under the Open Records Act.

Issuance of a Special Events Permit **does not create any liability** for the issuing entities outside of their normal responsibilities under Colorado Revised Statutes. **It does not create a contractual agreement** with you and the issuing entities to perform any duty, responsibility or to perform any function other than what is provided for under the permit. **The applicant will not have any fees returned after the permit has been issued due to weather, lack of participation or any other reason.**

The applicant is responsible to ensure appropriate porta-potties, trash receptacles, arrange for Fire, ambulance, or law enforcement to manage their event as needed. If the event is deemed by local officials that these needs have not been met and additional resources are called in, the event will pay for those costs.

City of Leadville

800 Harrison Avenue
Leadville, Colorado 80461
719-486-2092, Fax 719 486-1040

Email: admins@leadville-co.gov www.cityofleadville.com

APPLICATION

Event Title: Flaming Foliage Relay

Description: (Describe what your event is about, who and what will be involved, how it will work and any special information that you feel is important to help us understand the details of the event)

165-mile team running relay from Idaho Springs to Buena Vista. The route is divided up into 30 legs with a runner exchange at the end of each leg. The route would pass through Leadville on the Mineral Belt Trail with a runner exchange at the Lake County High School. Will be limited to a maximum of 150 teams; only one person on a team will be running at a time.

Set up Date 9/7/23 Time afternoon Day of Week Thursday

Event Starts Date 9/8/23 Time 8:00 PM Day of Week Friday

Event Ends Date 9/9/23 Time before 6:00 AM Day of Week Saturday

Dismantle Date 9/9/23 Time before noon Day of Week Saturday

Location(s) requested: Runner route will enter Leadville on Hwy 91 from Copper Mountain, they will run on the Mineral Belt Trail through town to Elm/McWelthy Dr, then to Turquoise Lake.

Anticipated Attendance Total 0 Per Day 0
(not including participants)

Anticipated Participants Total max 150 teams Per Day _____ Total: 1500 max

Anticipated # of vehicles

CONTACTS

Host Organization run.Colorado Relays, LLC

Chief Officer of Host Organization Shawn Wherry & Mandy Mullen

Applicant (Contact) Name Shawn Wherry & Mandy Mullen

Address 9271 CR 70 City Windsor State CO Zip 80550

Telephone Number 714-403-5809 FAX Number alt number 970-213-7258

Pager/Cellular 714-403-5809 E-Mail Address: shawn@runwindsorco.com

City of Leadville

800 Harrison Avenue
Leadville, Colorado 80461
719-486-2092, Fax 719 486-1040

Email: admins@leadville-co.gov www.cityofleadville.com

APPLICATION, CONTINUED

If your event will impact city services please give description:

I don't anticipate any major impact. We are not requesting the closure of any roads. An advance truck will place sandwich boards with directional arrows on the side of the road on Friday. Our sweep truck will pick up the signs and our equipment at the runner exchanges after the last team passes. Since teams will be arriving late in the evening, and teams are spread out over 4 - 6 hours, there should not be any traffic issues that affect locals.

If your event involves alcohol, weapons, speed activities, high speed vehicles, pyrotechnics, loud noise of any kind or any unusual activity please describe:

None of these activities apply. The model for my races is to be under the radar as much as possible so as not to impose on local residents.

If required, an original Certificate of Insurance must be received by the City of Leadville prior to the approval and issuance of your Special Event Permit.

The applicant will need commercial general liability insurance that names as Additional Insured, the "City of Leadville its officers, employees, and agents" and any other public entities impacted by your event to which this permit applies. Insurance coverage must be maintained for the duration of the event including setup and dismantle dates.

Name of Insurance Agency _____

Address 5660 New Northside Dr Ste 640 City Atlanta State GA Zip 30328

Telephone Number 678-324-3300 Pager/Cellular _____

Contact Name Sample attached; policy obtained after first of the year

Policy Type _____

Policy Amount _____ Policy Number _____

City of Leadville

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APPLICATION, CONTINUED

Please Provide an Event Map that includes the following information

If the item does not apply please write N/A in the box.

- Location of fencing, barriers and/or barricades. Indicate any removable fencing for emergency access.
- Provision of minimum twenty foot (20') emergency access lanes throughout the event venue.
- Location of first-aid facilities and ambulances.
- Location of all stages, platforms, scaffolding, bleachers, grandstands, canopies, tents, portable toilets, booths, beer gardens, cooking areas, trash containers and dumpsters, and other temporary structures.
- A detailed or close-up of the food booth and cooking area configuration including booth identification of all vendors cooking with flammable gases or barbecue grills.
- Generator locations and/or source of electricity.
- Placement of vehicles and/or trailers.
- Exit locations for outdoor events that are fenced and/or locations within tents and tent structures.
- Other related event components not listed above. _____

CERTIFICATION:

I/we certify that the information contained in the foregoing application is true and correct to the best of my/our knowledge and belief that I/we have read, understand and agree to abide by the requirements, rules and regulations governing the proposed Special Event Permit under the City of Leadville. I/we agree to comply with all other requirements of the City, County, State, Federal Government, and any other applicable entity which may pertain to the use of the Event venue and the conduct of the Event, I/we agree to pay all fees, taxes and the City shall not be liable for the payment of such taxes. I/we agree to abide by the requirements of the Special Events Permit, and further certify that I/we, on behalf of the Host Organization, am also authorized to commit that organization, and therefore agree to be financially responsible, in conjunction with the Host Organization, for any costs and fees that may be incurred by or on behalf of the Event to the City of Leadville.

Print Name Host Organization run.Colorado Relays, LLC

Print Name of Authorized Agent Shawn Wherry

Title Race Director

Signature *Shawn Wherry*

Date: March 16, 2023

Approved by: _____

City of Leadville

800 Harrison Avenue
Leadville, Colorado 80461
719-486-2092, Fax 719 486-1040

Email: admins@leadville-co.gov www.cityofleadville.com

APPROVAL/DENIAL PAGE

(copy to be given to applicant along with the application, and filed with documentation)

REQUEST HAS BEEN:

Event approved: _____
Date

Event Denied: _____
Date

INSURANCE REQUIRED? **YES** **NO**
(Attach Certificate of Insurance to file copy)

Special Events Permit Requirements:

Approval Granted by: _____

Date: _____

City of Leadville

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Leadville, Colorado 80461
719-486-2092, Fax 719 486-1040

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MUST BE SIGNED BY THESE DEPARTMENTS BEFORE SUBMITTING APPLICATION

DEPARTMENT INPUT (to be attached to the permit file copy):

City of Leadville (Planning Official): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

City Street Dept: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

Police Department: CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE DATE

Fire Department: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

Health Dept (food): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

City of Leadville: (Council) CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE DATE

To be filled out by the respective departments, if applicable: total costs to the City in labor hours and/or dollars.

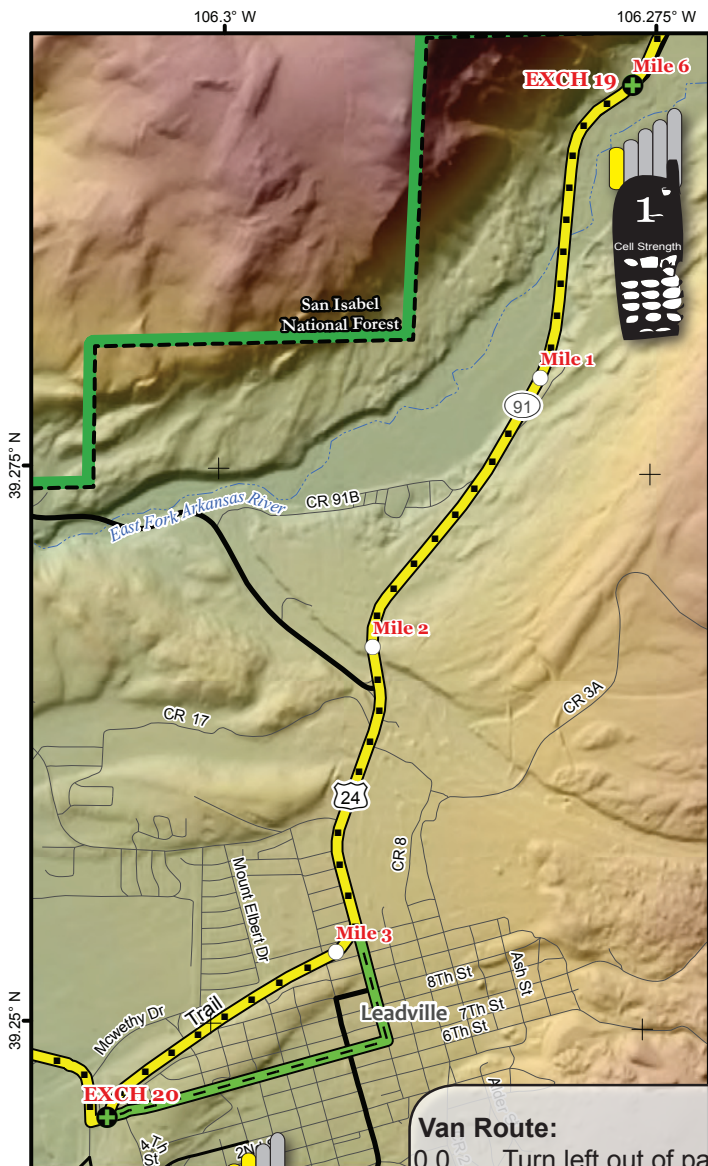
Police Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Street Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Fire Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Total Labor: Total Fuel & Supplies:

LEG 20 -- 3.9 MILES -- MODERATE



LEG DESCRIPTION: Shoulder of Hwy 91 into Leadville, then on bike path through town.

Terrain – undulating; entire leg over 9,900 feet

Surface –paved road and bike path

LEG NOTES

Runners on left side of road

QUIET ZONE – residential neighborhood

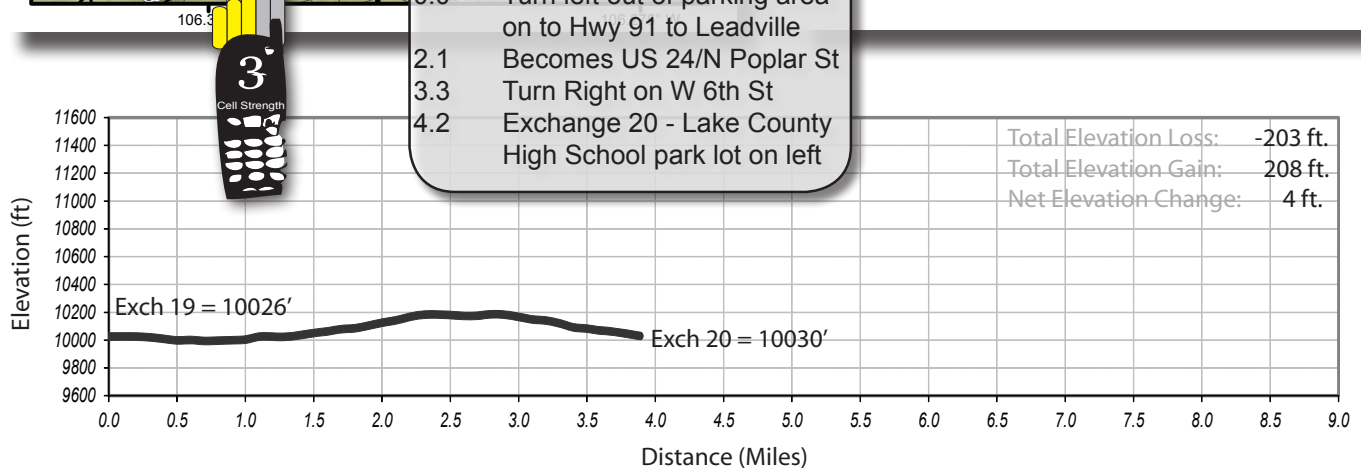
Exchange Parking –park in High School parking lot off W 6th Ave.

Mileage

- 0.0 Turn left out of parking area on to Hwy 91 to Leadville
- 2.1 Continue straight; Hwy 91 becomes US 24/N Poplar St
- 2.6 Safeway on right; intersection with Mountain View Dr; stop light; continue straight
- 2.9 **CAUTION** - Cross Hwy 24 on to bike path. Follow bike path crossing residential streets (no straight signs) for 1.6 miles until left turn on McWethy Dr
- 3.1 **CAUTION** - Cross Harrison Ave
- 3.5 **CAUTION** - Cross James St
- 3.9 **CAUTION** - Cross W 6th Ave
- 3.9 **VAN EXCHANGE #20 - Lake County High School**

Van Route:

- 0.0 Turn left out of parking area on to Hwy 91 to Leadville
- 2.1 Becomes US 24/N Poplar St
- 3.3 Turn Right on W 6th St
- 4.2 Exchange 20 - Lake County High School park lot on left



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Email: admins@leadville-co.gov www.cityofleadville.com

APPLICATION, CONTINUED

If your event will impact city services please give description:

If your event involves alcohol, weapons, speed activities, high speed vehicles, pyrotechnics, loud noise of any kind or any unusual activity please describe:

If required, an original Certificate of Insurance must be received by the City of Leadville prior to the approval and issuance of your Special Event Permit.

The applicant will need commercial general liability insurance that names as Additional Insured, the "City of Leadville its officers, employees, and agents" and any other public entities impacted by your event to which this permit applies. Insurance coverage must be maintained for the duration of the event including setup and dismantle dates.

Name of Insurance Agency Edgewood Partners Insurance Center - Through USATF

Address 5900 Peachtree Dunwoody Rd, Suite 800 City Atlanta State GA Zip 30328

Telephone Number 678-324-3300 Pager/Cellular _____

Contact Name See Attached COL listing City of Leadville as Certificate Holder

Policy Type _____

Policy Amount _____ Policy Number _____

CERTIFICATE OF INSURANCE		PRINT DATE: 2/15/2023			
		CERTIFICATE NUMBER: 20230215959846			
AGENCY:					
Edgewood Partners Insurance Center 5909 Peachtree Dunwoody Road, Suite 800 Atlanta, GA 30328 678-324-3300 (Phone), 678-324-3303 (Fax)		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
NAMED INSURED:		INSURERS AFFORDING COVERAGE:			
USA Track & Field, Inc. run.Colorado Relay's, LLC 130 East Washington Street, Suite 800 Indianapolis IN 46204		INSURER A: Accredited Surety and Casualty Company, Inc. NAIC# 26379 INSURER B: Allied World National Assurance Company NAIC# 19489			
EVENT INFORMATION:					
Flaming Foliage Relay (9/8/2023 - 9/9/2023)					
POLICY/COVERAGE INFORMATION:					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INS	TYPE OF INSURANCE:	POLICY NUMBER(S):	EFFECTIVE:	EXPIRES:	LIMITS:
A	GENERAL LIABILITY				
	<input checked="" type="checkbox"/> Occurrence	1-TRE-IN-17-01338542-00	11/1/2022 12:01 AM	11/1/2023 12:01 AM	GENERAL AGGREGATE (Applies Per Event) \$4,000,000
	<input checked="" type="checkbox"/> Participant Legal Liability				EACH OCCURRENCE \$2,000,000
					DAMAGE TO RENTED PREMISES (Each Occ.) \$2,000,000
					MEDICAL EXPENSE (Any one person) EXCLUDED
					PERSONAL & ADV INJURY \$2,000,000
					PRODUCTS-COMP/OP AGG \$2,000,000
A	UMBRELLA/EXCESS LIABILITY				
	<input checked="" type="checkbox"/> Occurrence	1-TRE-IN-17-01338543-00	11/1/2022 12:01 AM	11/1/2023 12:01 AM	EACH OCCURRENCE \$3,000,000
					AGGREGATE \$3,000,000
B	OTHER				
	<input checked="" type="checkbox"/> EXCESS LIABILITY	0313-1301	11/1/2022 12:01 AM	11/1/2023 12:01 AM	EACH OCCURRENCE \$7,000,000
					AGGREGATE \$7,000,000
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS:					
Coverage applies to USA Track & Field sanctioned events and registered practices, including any directly related activities, such as event set-up and tear-down, participant check-in and award ceremonies.					
The certificate holder is an additional insured per the following endorsement: Blanket Additional Insured (RSCG 03 03)					
The General Liability policy is primary and non-contributory with respect to the negligence of the Named Insureds (Form CG 20 01)					
The General Liability policy contains a blanket Waiver of Subrogation as required by contract per Waiver of Transfer of Rights of Recovery Against Others (Form CG 24 04).					
Excess policy follows form of underlying General Liability.					
CERTIFICATE HOLDER:			NOTICE OF CANCELLATION:		
City of Leadville 800 Harrison Ave Leadville CO 80461			Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.		
			AUTHORIZED REPRESENTATIVE:		
					

City of Leadville

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Leadville, Colorado 80461
719-486-2092, Fax 719 486-1040

Email: adminservices@leadville-co.gov www.cityofleadville.com

MUST BE SIGNED BY THESE DEPARTMENTS BEFORE SUBMITTING APPLICATION

DEPARTMENT INPUT (to be attached to the permit file copy):

City of Leadville (Planning Official): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE [Signature] DATE 04/04/2023

City Street Dept: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

Police Department: CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE DATE

Fire Department: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

Health Dept (food): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE DATE

City of Leadville: (Council) CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE DATE

To be filled out by the respective departments, if applicable: total costs to the City in labor hours and/or dollars.

Police Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Street Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Fire Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Total Labor: Total Fuel & Supplies:

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DEPARTMENT INPUT (to be attached to the permit file copy):

City of Leadville (Planning Official): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

City Street Dept: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE [Signature] DATE 4/18/23

Police Department: CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

Fire Department: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

Health Dept (food): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

City of Leadville: (Council) CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

To be filled out by the respective departments, if applicable: total costs to the City in labor hours and/or dollars.

Police Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Street Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Fire Dept.: labor hrs; at \$ per hr plus \$ in fuel & supplies for a total \$

Total Labor: Total Fuel & Supplies:

City of Leadville

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Email: admins@leadville-co.gov www.cityofleadville.com

MUST BE SIGNED BY THESE DEPARTMENTS BEFORE SUBMITTING APPLICATION

DEPARTMENT INPUT (to be attached to the permit file copy):

City of Leadville (Planning Official): CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

City Street Dept: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

Police Department: CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

Fire Department: CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

Health Dept (food): *Flaming Foliage* CONDITIONS / RESTRICTIONS/ COMMENTS/APPROVAL

if there is any food service or aid stations they need to reach out for additional approval.
SIGNATURE *Kymie* DATE *4/4/23* *kmaxie@co.lake.co.us*

City of Leadville: (Council) CONDITIONS / RESTRICTIONS/COMMENTS/APPROVAL

SIGNATURE _____ DATE _____

To be filled out by the respective departments, if applicable: total costs to the City in labor hours and/or dollars.

Police Dept.: _____ labor hrs; at \$ _____ per hr plus \$ _____ in fuel & supplies for a total \$ _____

Street Dept.: _____ labor hrs; at \$ _____ per hr plus \$ _____ in fuel & supplies for a total \$ _____

Fire Dept.: _____ labor hrs; at \$ _____ per hr plus \$ _____ in fuel & supplies for a total \$ _____

Total Labor: _____ Total Fuel & Supplies: _____



AGENDA ITEM #8B

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: July 5, 2023

SUBJECT: Ordinance No. 2, Series of 2023: An Ordinance Amending Various Sections of Chapters 5.12, 17.08, 17.48, 17.50, and 17.60 of the Leadville Municipal Code Concerning Updates to the Table of Uses and Land Use Definitions (Second Reading)

PRESENTED BY: Chapin LaChance, AICP – Planning Director

ORDINANCE
 RESOLUTION
 MOTION
 INFORMATION

I. **REQUEST OR ISSUE:**

Before City Council for consideration on second reading is Ordinance No. 2, Series of 2023 (“Ordinance”), which amends Title 17 (Zoning) of the Leadville Municipal Code to reorganize, streamline, and update its table of uses, land use definitions, and related provisions of the City’s Zoning Code, concerning administrative permits, accessory uses, and approval of certain short-term rental unit licenses. There is one (1) proposed revision since first reading.

II. **BACKGROUND INFORMATION:**

One (1) revision since the May 16, 2023 first reading

At the May 16, 2023 first reading, the Council requested staff look into how these amendments would affect use allowances for “permanent supportive housing”, considering the example of the Lake County Advocates’ expected use of the property at 735 Highway 24 as a “group home”, which lies within the Commercial (C) zoning district. While staff does not encourage “spot”

re-zoning of specific properties for specific proposed uses, staff did research this and has provided the information below for the City Council.

The consultant’s proposed amendments remove the former Conditional use allowance in the Retail Core (RC) and (C) zone, and establish group home use as a by-right use in the Transitional Commercial (TC) zone (see excerpt below).

	R-1	R-2	TR	RC	C	TC
4. <u>Group Homes</u> Boarding and rooming houses and retirement homes	Ⓟ	C	C	€	€	R C

The purpose statement in Title 17 – Zoning for the Commercial zoning district is: *“This district is created for the purposes of providing for tourism and automobile-oriented business and commercial, office and retail services along the city’s major highway approaches, and providing for the scenic and visual enhancement of those major highway approaches to Leadville. Consequently, the visual appearance and contribution to attractiveness of Leadville’s gateways shall be a significant characteristic of all new and expanded development in this district.”* Note that this description of character does not envision residential uses.

The City’s 2015 Comprehensive Plan includes a Future Land Use Plan that designates this area as Highway Commercial. Per the Comprehensive Plan, *“This designation emphasizes convenient automobile access and parking and allows well-screened broken-up parking lots in the front as seen from the highway. Auto access is balanced with obvious and convenient access for pedestrians and bikes. Avoid monotonous block-like structures by incorporating interesting and varied façades and encourage a mountain/rustic architectural style that fits the mountain-town setting and reflects the mining heritage. This designation allows for a flexible mix of retail, restaurants, service commercial, offices and other uses aimed at attracting and accommodating customers on-site.”* Note that this description of character also does not envision residential uses.

In the attached Planning Director’s and City Attorney’s proposed amendments, group home use is within the “Residential Uses” category, and “Group Living” subcategory (see excerpt below)

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
Residential Uses							
Household Living	Dwellings above or below commercial use		A	A	R	A	R
	Multifamily dwelling (3-4 units)	C	R	R		R	R
	Multifamily dwelling (5+ units)		C	C	C	C	C
	Single-family dwelling (attached and detached)	R	R	R		C	R
	Two-family dwelling	R	R	R		C	R
	Mobile home park			<u>C</u>			
Group Living	Group h Homes		C	C			C
	Retirement h Homes, s Senior living facility center		R	C		C	C

Group Living is proposed to be defined as *“Group Living” means uses characterized by residential occupancy of a structure by a group of people who do not meet the definition of “household living.” Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Group living structures commonly have a common eating area for residents. The*

residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

Considering 1) the housing shortage challenges currently faced in Leadville and Lake County, 2) that the Comprehensive Plan is due for an update and does not contemplate the housing crisis that has affected Leadville since its adoption, and 3) that group homes are a residential use already proposed to be a Conditional use in the Transitional Commercial (TC) zoning district, staff has reverted the use allowance from Prohibited back to a Conditionally allowed use in the Commercial (C) zone (See excerpt below).

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
Residential Uses							
Household Living	Dwellings above or below commercial use		A	A	R	A	R
	Multifamily dwelling (3-4 units)	C	R	R		R	R
	Multifamily dwelling (5+ units)		C	C	C	C	C
	Single-family dwelling (attached and detached)	R	R	R		C	R
	Two-family dwelling	R	R	R		C	R
	<u>Mobile home park</u>			<u>C</u>			
Group Living	Group <u>h</u> Homes		C	C		<u>C</u>	C
	Retirement <u>h</u> Home, <u>s</u> Senior living <u>facility</u> center		R	C		C	C

General Background Information (Unchanged since first reading):

The attached memo from the City’s consultant, TJ Dlubac with Community Planning Strategies, explains the background of this code amendment project which began in 2018. These amendments have been reviewed by either the City Planning and Zoning Commission (P&Z) or City Council at the following public meetings:

- 11/29/2017 P&Z Work Session
- 3/28/2018 P&Z Work Session
- 2/27/2019 P&Z Work Session
- 3/27/2019 P&Z Work Session
- 12/18/2019 P&Z Work Session
- 8/24/2022 P&Z Work Session
- 11/15/2022 Joint Work Session, P&Z and City Council
- 1/25/2023 (P&Z public hearing, continued to 2/22/2023 meeting)
- 2/22/2023 (P&Z public hearing, continued to 04/26/2023 meeting)
- 04/26/2023 P&Z public hearing
- 05/16/2023 City Council first reading

Consultant Revisions

The City’s consultant provided the documents listed below which are attached in this packet.

- Memo for P&Z public hearing (bottom of 2nd page explains most recent changes)

- Redline version of proposed amendments to Ch. 17.08 Definitions.
- Redline version of proposed amendments to Ch 17.48.010, Table of Uses

Minor revisions which have been made since the 11/15/2022 Joint Work Session, which are highlighted in green.

- A lot of minor technical, grammatical, and word choice changes to finalize the proposal and prepare the various documents for hearing. All changes can be seen in the redlined version of the Table of Uses.
- Allow multiple-family dwellings (3-4 units) by right (R) in the TR and C zone districts. Since the Policy Advisory Team (PAT) did not include the 5+ units line in their recommendation, the consultant reverted these back to Conditional Use (C) in the TR and C zone districts as well.
- A definition of “Rental Shop” was added.
- Reverted allowances for Accessory Dwelling Units (ADUs) back to the current status (prohibited in the RC district) since the proposed changes to the Table of Uses conflicted with Sec. 17.60.020.B.

City Attorney and Planning Director Revisions

After receiving the revisions from the consultant, the City Attorney and Planning Director conducted a review of the proposed amendments and made extensive additional revisions. Below is a description of the additional attached redlines made to each section.

17.08.020 - Use Categories and 17.08.030 - Definitions

Various amendments to animal, childcare, short-term rental, alcohol, marijuana, and formula businesses uses for consistency with Colorado Revised Statutes, the Table of Uses amendments, or previously adopted City ordinances. These amendments also include:

- Added definitions for “commercial use”, “density”, “fence”, “hostel”, and “modular construction”.
- Clarification that any “dwelling unit” can include modular construction.

17.48.010 - Designation (Table of Uses)

- Changed introductory statement so that uses not listed in the table are reviewed for compliance with 17.48.20 “Uses not listed” instead of being prohibited.
- Made various amendments for consistency with 17.08.020 - Use Categories and 17.08.030 Definitions.
- Listed “Short Term Rental” use type under “Lodging Facilities” use category, and listed as requiring an Administrative Permit in all zones per the City Council direction at the 02/28/2023 Joint Work Session.
- Removed accessory use zoning allowances from 17.60 Accessory Buildings and Uses and listed

them under the Accessory Uses section of the table.

17.48.020 - Uses not listed

- Changed title from “Uses not itemized” to “Uses not listed”.
- This is an entire “repeal and replace” of this section. The amendments allows the Planning Official, instead of the City Council, to decide whether a proposed use not listed in the table is comparable to a listed use, and provides criteria for making that decision.

17.48.030 - Manufactured Homes and Mobile Homes

- Removed zoning allowance from this section so that the zoning allowance is solely listed in the Table of Uses.

Chapter 17.50 - Administrative Permits

- Changed reviewer from P&Z chair and Planning Official to solely Planning Official.
- Allow for reclassification of application to a CUP by Planning Official.
- Removed requirement for adjacent property owner notice.
- Simplified violation and permit revocation process.

Chapter 17.60 – Accessory uses, buildings, and structures

- Changed title from “Accessory Building and Structures” to “Accessory Uses, Buildings, and Structures”.
- Removed use allowances by zone, leaving to be solely regulated by the Table of Uses, including accessory uses.
- Combined Accessory Dwelling Units (ADU) standards for all zones into section titled ADU Requirements.
- Clarified that an ADU counts as a unit of density, and that a maximum of 1 ADU is allowed, per direction from the 01/25/2023 P&Z meeting.

Chapter 5.12 – Short-Term Rentals:

- Added definition for “short-term rental unit”.
- Changed references to the Zoning permit requirement from a conditional use permit to an administrative permit per the City Council direction at the 02/28/2023 Joint Work Session.
- Clarifications for short-term rental licenses for condominiums.

17.92.030 - Approval criteria.

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

1. *Is consistent with the city's comprehensive plan, as amended from time to time; Appendix 3 to the 2015 Comprehensive Plan titled “Land Use Code Assessment” states “Chapter 17.48 of the Zoning Ordinance includes Table 1, By Right, Conditional and Prohibited Uses by Zoning District. The uses in*

Table 1 appear to be listed in order from less-intense to more-intense. The table should be reorganized in one of two ways: 1) alphabetically by use, or 2) by categorical headers (e.g., residential, commercial, industrial, etc.). Because the proposed amendments accomplish this specific goal by reorganize the table into categorical headers, this amendment is consistent with the 2015 Comprehensive Plan.

2. *Does not conflict with other provisions of this title or this code;*

Staff and the City Attorney conducted a thorough review to ensure consistency with other Title 17 chapters and the remainder of the City code.

3. *Addresses a demonstrated community need;*

The need to reorganize the table of uses is demonstrated through its mention in the 2015 Comprehensive Plan.

4. *Responds to changing city policy or conditions; and*

The proposed amendments remove uses from the Table of Uses that could be grouped with other similar uses, or that are unnecessary. For example, many of the telecommunications facility sub-uses were removed since they all fall under the umbrella definition and review procedures outlined in Sec. 17.72.070. Another example of responding to changing conditions is the various amendments to animal, childcare, short-term rental, alcohol, marijuana, and formula businesses uses for consistency with Colorado Revised Statutes, the Table of Uses amendments, or previously adopted City ordinances such as the 2022 ordinance regarding Formula Businesses. These amendments also address the P&Z's 01/25/2023 determination that an ADU counts as a unit of density, and that a maximum of one (1) ADU is allowed per primary building. Finally, these amendments respond to the City Council's 02/28/2023 direction that short term rental use should require an administrative permit and not a conditional use permit.

5. *Is consistent with the purpose and intent of the zoning districts in this title, would improve compatibility among land uses, or would result in an orderly and logical development pattern.*

Section 17.04.040 – Purpose states *“The purpose and intent of this title shall... include but not necessarily be limited to... A.Implement the relevant provisions of the Leadville comprehensive plan;”* Considering the 2015 Comprehensive Plan specifically identified a need to update the Table of Uses to include categorical headers, and the proposed Ordinance would address this need, staff finds this criteria is met.

III. **FISCAL IMPACTS:**

None.

IV. **LEGAL ISSUES:**

None.

VI. **PLANNING AND ZONING COMMISSION, STAFF RECOMMENDATION:**

At the 04/26/2023 public hearing, the Planning and Zoning Commission recommended the City Council adopt the attached Ordinance No. 2, Series of 2023. Staff recommends the City Council adopt this ordinance on second reading.

VII. COUNCIL OPTIONS:

Council may take one of the following actions:

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

VIII. PROPOSED MOTION:

“I move to adopt Ordinance No. 2, Series of 2023, an Ordinance Amending Various Sections of Chapters 5.12, 17.08, 17.48, 17.50, And 17.60 of the Leadville Municipal Code Concerning Updates to the Table of Uses and Land Use Definitions on second reading with the attached Findings.”

IX. ATTACHMENTS:

- Consultant’s Memo for P&Z public hearing (bottom of 2nd page explains most recent changes)
- Consultant’s redline version of proposed amendments to Ch. 17.08 Definitions.
- Consultant’s redline version of proposed amendments to 17.48.010 - Designation (Table of Uses)
- City Attorney and Planning Director’s additional redlines to Ch. 17.08 Definitions.
- City Attorney and Planning Director’s additional redlines to 17.48.010 - Designation (Table of Uses)
- City Attorney and Planning Director’s redlines to 17.48.020 - Uses Not Itemized
- City Attorney and Planning Director’s redlines to 17.48.030 - Manufactured Homes and Mobile Homes
- City Attorney and Planning Director’s redlines to Chapter 17.50 - Administrative Permits
- City Attorney and Planning Director’s redlines to Chapter 17.60 - Accessory Buildings and Structures
- City Attorney and Planning Director’s redlines to Chapter 5.12 - Short-Term Rentals
- Ordinance No. 2, Series 2023
- Findings

To: City of Leadville Planning and Zoning Commissioner's
Cc: Laurie Simonson, City of Leadville City Administrator
Lori Tye, City of Leadville Administrative Assistant
Chapin LaChance, City of Leadville Planning Director
Date: January 15, 2023
Subject: Planning & Zoning Commission Hearing Land Use Table Updates

BACKGROUND INFORMATION:

This project began back in 2018 and was put on hold in 2019 to allow the city to focus on Short-Term Rentals ("STR"). During the period the project was active, there were multiple work sessions and discussions with the Planning and Zoning Commission ("P&Z"). For purposes of background, update memos from the previous work on this project have been attached to this memo to provide some context to the previous edits suggested and some context as to why.

As outlined in the March 23, 2018, memo, there were five objectives identified that guided this project:

1. Re-organize the overall table to be more readable and usable.
2. Remove duplicate uses from the table.
3. Where able, consolidate items into more general terms.
4. Add new uses where applicable.
5. Establish appropriate approval processes for the level of review needed (i.e., By-Right, Administrative, Conditional, etc.)

To move towards these objectives, multiple rounds of revisions sought to address the following:

1. Generally, use the same terms as in the current code and recategorize them based on use type. The reorganization divided uses into four categories:
 - a. Residential Uses
 - b. Public, Institutional, and Civic Uses
 - c. Commercial Uses
 - d. Industrial Uses
2. Divide the four general categories into "Use Categories" to allow more flexibility in interpreting uses that may not be known at this time. The intent of moving to this structure is to allow the city to manage for impacts of uses rather than a definition of a specific term. An inventory of other municipal codes from peer communities was evaluated to determine the desired structure of the table.
3. Remove uses that could be grouped with other similar uses, or that were unnecessary. For example, many of the telecommunications facility sub-uses were removed since they all fall under the umbrella definition and review procedures outlined in Sec. 17.72.070.
6. A review of the definitions section to add, delete, and amend definitions to fit the intent of the terms used in the table of uses.
7. Create a new section entitled "Use Categories" to allow a broader category of uses which allows a broader ability to interpret proposed uses.
8. Evaluate the level of approval for each use in each zoning district to ensure the appropriate level of oversight and review was being conducted. For some uses, the P&Z desired to reduce the level

of oversight by moving things to administrative approval or use by right. In other cases, the desire was to apply additional scrutiny for specific situations resulting in a conditional use being required. The suggested changes can be seen in the redline version of the table of uses attached to this memo.

PLANNING & ZONING COMMISSION WORK SESSION:

CPS presented proposed updated documents to the Planning and Zoning Commission at a work session on August 24th. The memo provided to the Commission prior to that meeting is included in the background materials attached to this memo.

Based on the discussion at that meeting, CPS made a variety of changes to the definitions and table of uses. Changes made since that discussion are identified with yellow highlights throughout all documents. The redline drafts attached to this memo reflect proposed changes based on the version of the code currently adopted municipal code.

JOINT CITY COUNCIL AND PLANNING & ZONING COMMISSION WORK SESSION:

CPS presented proposed updated documents to a joint work session with the City Council and the Planning and Zoning Commission on November 15th. At this meeting, there was some discussion about possible next steps and additional code amendments, however, in general, there was consensus on the amendments and the proposed revisions. Guidance was provided to proceed with the hearing process.

SINCE JOINT WORK SESSION:

Minor changes which have been made since the joint work session and they are listed below:

1. A lot of minor technical, grammatical, and word choice changes to finalize the proposal and prepare the various documents for hearing. All changes can be seen in the redlined version of the table of uses.
2. Allow Multiple-family dwelling (3-4 units) by right (R) in the TR and C zone districts. Since PAT did not include the 5+ units line in their recommendation, CPS reverted these back to Conditional Use (C) in the TR and C zone districts as well.
3. A definition of "Rental Shop" was added.
4. Reverted allowances for ADU's back to the current status (prohibited in the RC district) since the proposed changes to the Table of Uses conflicted with Sec. 17.60.020.B.

**01/15/2023 Proposed red-lined amendments by City's
consultant, TJ Dlubac with Community Planning
Strategies**

Chapter 17.08 DEFINITIONS

17.08.010 Introduction.

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

17.08.020 ~~Definitions~~ Use Categories.

This section defines the general use categories listed in Table 1, By-Right, Conditional, and Prohibited Uses by Zoning District within Chapter 17.48. Definitions for specific use types are in alphabetical order in Section 17.08.030.

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

"Agricultural Uses" means Agricultural and farming activities, including nurseries and facilities for processing and selling agricultural products. Agricultural uses commonly involve farming, dairying, pasturage, apiculture, horticulture, floriculture, and viticulture.

"Child care facilities" means establishments that provide care for children on a regular basis away from their primary residence. Accessory uses commonly include offices, recreation areas, and parking. This category commonly does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises.

"Community and Cultural Facilities" means uses including buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public.

"Educational Facilities" means public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses commonly include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

"Food and Beverage" means establishments involved in serving prepared food or beverages for consumption on or off the premises. Accessory uses commonly include food preparation areas, offices, and parking.

"Group Living" means uses characterized by residential occupancy of a structure by a group of people who do not meet the definition of "household living." Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Group living structures commonly have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

“Healthcare Facilities” means any facility providing direct health care to the public such as hospitals, mental health institutions, sanitariums, special care centers, and clinics.

“Household Living” means uses characterized by residential occupancy of a dwelling unit as a household. The tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of fewer than 30 days is classified under the “lodging facilities” category). Accessory uses commonly include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, home occupations, and parking of the occupants’ vehicles.

“Industrial Service and Research” means uses including the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Contractors and similar users may perform services off-site with few customers coming to the site. Accessory activities commonly include offices, parking, and indoor or outdoor storage.

Commented [TD1]: Removed "sales" offices..

“Lodging Facilities” means for-profit facilities where lodging, meals, and the like are provided to transient visitors and guests for a defined period of time.

“Manufacturing and Production” means uses including all transformative processes, regardless of whether or not the new product is finished or semi-finished. Production is commonly for commercial wholesaling rather than for direct sales.

“Marijuana Industries” means any and all industries, uses, facilities, licenses, or other activities allowed under the Colorado Medical Marijuana Code (Article 43.3 of Title 12, C.R.S., as amended) and Colorado Retail Marijuana Code (Article 43.3 of Title 12, C.R.S., as amended), and further regulated under the Colorado Department of Revenue, Marijuana Enforcement Division’s Medical Marijuana Code, 1, C.C.R. 212-1, as amended and/or Retail Marijuana Code, 1 C.C.R. 212-2, as amended.

“Offices” means uses that provide executive, management, administrative, or professional services, but do not involve the sale of merchandise except as incidental to a principal use. Common uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. Accessory uses commonly include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

“Parking Facilities” means any parking lot or parking structure that is used primarily or habitually for the parking of vehicles (excluding street or alley rights-of-way).

“Parks and Open Space” means uses with a focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses commonly include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking.

“Personal Services” means establishments that provide individual services related to personal needs directly to customers at the site of the business, or that receive goods from or return goods to the customer, which have been treated or processed at that location or another location. Examples commonly include beauty and barbershops, laundromats, shoe repair shops, and tailor shops.

Commented [TD2]: Removed "...but not limited to..."

“Public Utilities and Facilities” means all lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services at a local level.

Updates based on Aug. 24th discussion with P&Z are highlighted in yellow.
Green Highlights made on 1/11/2023

“Recreation and Entertainment” means uses that provide recreation or entertainment activities. Accessory uses commonly include concessions, snack bars, parking, and maintenance facilities.

“Retail” means uses involving the sale of a product directly to the final consumer for whatever purpose but not specifically or exclusively for the purpose of resale. Examples commonly include bookstores, antique stores, bakeries, grocery stores, household product stores, and similar uses.

“Temporary Use” means a use established for a limited duration of time with the intent to discontinue such use upon the expiration of the time period.

“Vehicles and Equipment” means a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses commonly include incidental repair, storage, and offices.

“Veterinary Services” means animal-related uses including the boarding and care of animals on a commercial basis. Accessory uses commonly include confinement facilities for animals, parking, and storage areas.

“Warehouse and Freight” means uses that are engaged in the storage or movement of goods for themselves or other firms. Goods are commonly delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses commonly include offices, truck fleet parking, and maintenance areas.

Section 17.08.030 Definitions

In this Title, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

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

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

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

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

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

Commented [TD3]: Removed "...but not limited to..."

Commented [TD4]: Removed "...uses include..."

Commented [TD5]: Cross reference with Sec. 16.04.170 of the Subdivision Regulations to ensure consistency.

Commented [TD6]: Changed "Chapter" to "Title" to cover entire Title 17 Zoning.

Commented [TD7]: Reordered

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

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

"Alteration" means any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to, the erection, construction, reconstruction, or removal of any structure or substantial portion thereof. With regard to a mobile home park or travel trailer park, alteration would be any act or process that changes density, lot size, and boundaries.

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

"Animal boarding and training" means an establishment where domesticated animals other than household pets are housed, groomed, bred, boarded, trained, or sold. This term shall not include the operation of a kennel.

"Animal production related to the commercial production of animals" means raising or fattening animals for the sale of animals or animal products. The subsector comprises establishments, such as ranches, farms, and feedlots primarily engaged in keeping, grazing, breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale.

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

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

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

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

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

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

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

“Art gallery” means an establishment engaged in the sale, loan, or display of paintings, photography, sculpture, or other works of art and may include art classes, art studio space, and special events. Art Gallery does not include libraries, museums, or non-commercial art galleries.

“Arts and entertainment facility” means a structure, complex, or facility for the presentation of performing arts. Arts and entertainment centers do not include any business defined as a sexually-oriented business by this title.

“Arts and entertainment facility, indoor” means a structure, complex, or facility for the presentation of exclusively indoor performing arts, including indoor motion picture theaters, theaters for indoor live performances, and studios for arts education, such as dance or painting. Arts and entertainment facilities do not include any business defined as a sexually-oriented business by this title.

“Athletic facilities” means a developed recreation area that may contain a playground as well as fields for competitive sports such as baseball, football, or soccer. Bleachers or grandstands may be provided.

“Automotive, recreational vehicles, or marine sales and service” means the use of any building or land for a business involving the sale, leasing, ~~and~~ or servicing of new or used motor vehicles, boats, snowmobiles, ATVs, OHVs, UTVs, or recreational vehicles. Such establishments may include office space, parking lots for the display and storage of vehicles available for sale, parking areas for customers and employees, vehicle repair facilities, facilities for body work, painting, or restoration and sale of parts.

Commented [TD8]: Changed "and" to "or"

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

Bars and lounges” mean a commercial enterprise whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars and lounges include taverns, night clubs, private clubs, bottle clubs, and similar facilities serving alcoholic liquor.

"Bed and breakfast establishment" means a building or portion thereof with kitchen facilities for the customary service of breakfast at no additional cost to patrons and with sleeping rooms designed to be used, let, or hired for occupancy by persons on a temporary basis and containing not more than ~~ten (10)~~ five (5) such rooms.

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

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

“Brewery” means an industrial use that brews ales, beers, meads, and/or similar beverages on site. Breweries are classified as a use that primarily manufactures beverages as defined herein and/or small breweries operated in conjunction with a bar, restaurant, or storage defined herein as an accessory use.

“Brewpub” means a restaurant that includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. The area used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space and the facility shall have a capacity no more than that of a microbrewery.

"Buffer" means a screen which provides a visual barrier and noise abatement around the perimeter of mobile home parks and travel trailer parks excluding areas of ingress and egress. The screen can consist

of any combination of the following: a wood or masonry fence, essentially solid, with a minimum height of six feet; or landscaping or a landscaped berm consisting of trees, plants, flowers, or other natural vegetation. At no point can the screen be less than three feet in height. At the time of construction, sixty (60) percent of the perimeter area where the screen is to be placed must be at least six feet in height.

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

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

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

"Café" means an informal restaurant primarily offering coffee, tea, and other beverages, where light refreshments and limited menu meals may also be sold.

"Campground" means an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, recreational vehicles, and or similar movable or temporary sleeping quarters of any kind.

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

~~Church~~ "Cemetery" means land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

"Child care center" means any facility providing less than 24-hour care for over six unrelated children during the daylight hours for compensation.

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

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

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

"Commercial greenhouse" means a greenhouse for agricultural production.

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

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

“Community Center” means a building or portion of a building used for nonprofit, cultural, educational, recreational, religious, or social activities which is open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency. Examples of community centers are learning centers, senior centers, and similar uses.

“Commercial cutting and storage of firewood” means the falling, chopping, cutting, splitting, or otherwise preparing timber or logs for commercial sales and/or storage of these products on the premises.

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

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

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

“Convalescent home”. See Nursing Home

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

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

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

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

“Detoxification center”. See “Substance Abuse Treatment Facility”.

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

“Distillery” means a facility for the on-site distillation of spirits in quantities not to exceed 75,000 gallons per year. The distillery operation processes the ingredients to make spirits by mashing, cooking and fermenting. The distillery operation does not include the production of any other alcoholic beverage. A distillery may include a tasting room open to the public.

“Distribution facility” means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

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

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

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

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

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

“Dwelling, two-family” ~~“Two-family dwelling”~~ means a dwelling designed for occupancy by two families, such as a duplex.

“Educational institution” means public, private, or ~~parochial~~ institution at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

Commented [TD9]: Replaced "...and religious..."

“Electric vehicle (EV) charging station” means a motor vehicle parking lot where EVs can either recharge batteries for free or for a fee. EV charging stations may be allowed as an accessory use to any use where parking is required or provided.

“Electric vehicle (EV) charging station, private” means an EV charging station that is not open to the general public.

“Electric vehicle (EV) charging station, public” means an EV charging station that is accessible without restrictions on which drivers can utilize the station.

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

"FAA" means the Federal Aviation Administration.

“Fabrication”. See “Manufacture of materials”.

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

“Family day care” means the use of a residence for the care of six or fewer children other than the occupant's own children for periods of less than 24 hours per day. Home child care is considered a home occupation.

“Farm stand” means a temporary building or structure, not to exceed a gross floor area of 500 square feet, from which agricultural products produced on the premises are sold.

"FCC" means the Federal Communication Commission.

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

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

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

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

“Greenhouse” means a building with a roof and sides constructed of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

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

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

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

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

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

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

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

~~"Harboring of chicken" means activities, definitions, and regulations set forth in Section 6.04.020 if the Leadville Municipal Code.~~

~~1. "Adjoining property and adjacent specific to harboring of chickens" includes all lots and parcels of land so long as any portion of the lot or parcel is located within twenty (20) feet of the outer boundary or perimeter of the property in question.~~

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

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

1. ~~_____~~ Is customarily carried on in a dwelling unit;
2. ~~_____~~ Is carried on by a member of the family residing in the dwelling unit with not more than one assistant who is not a resident of the premises;
3. ~~_____~~ Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; occupying not more than twenty-five (25) percent of the total floor area of the dwelling;

4. ~~_____~~ _____ Conforms to the following additional conditions:

a. ~~_____~~ _____ The occupation or profession shall be carried on wholly within the principal building.

b. ~~_____~~ _____ A sign shall not be lit, not exceed two square feet, and be constructed of wood and nonreflective paint or other such materials as may be allowed by planning ~~official~~ officials.

c. ~~_____~~ _____ No offensive noise, vibrations, smoke, dust, odors, heat or glare shall be produced.

d. ~~_____~~ _____ No additions to or alterations of the exterior of the dwelling unit, including outside entrances for the purpose of the home occupation, shall be permitted.

e. ~~_____~~ _____ The conduct of the home occupation and its external effects must not interfere with the peace, quiet, and dignity of the neighborhood and adjoining properties.

"Hospice". See Nursing Home.

"Hospital" means an institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, including as related facilities, laboratories, outpatient departments, training facilities, and staff offices.

"Hotel," ~~"motel" or "lodge"~~ means a building or portion thereof with guest units ~~sleeping rooms~~ used or designated for use by or hired for occupancy by persons on a temporary basis and ~~containing~~ including at least ~~six such guest rooms and shall include hostels~~ 275 square feet.

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

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

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

"Kennel" means:

1. ~~_____~~ _____ Any building, structure, area, or open space devoted wholly or partially to the raising, boarding or harboring of five or more ~~animals, domesticated,~~ animals that are over four months of age; or

2. ~~_____~~ _____ Any establishment for the boarding, raising or training of animals, domesticated, for which a fee is charged. ~~Such~~ The such establishment may include incidental grooming or the sale of pet supplies.

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

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

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

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

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

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

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

"Lumberyard" means an area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

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

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

Master Plan. See "Comprehensive Plan."

"Manufacture of materials" means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, or resins.

"Mausoleum". See Cemetery.

"Medical Clinic" means a building or group of buildings in which the primary use is the provision of health care services to patients or clients. Examples include but are not limited to medical and dental laboratories, blood banks, oxygen providers, integrative medicine and holistic or homeopathic therapies, and other miscellaneous types of medical services.

"Medical marijuana center" has the same definition as set forth in Section 5.44.030 of the Leadville Municipal Code.

"Medical marijuana establishment" has the same definition as set forth in Section 5.44.030 of the Leadville Municipal Code.

"Medical marijuana optional premises cultivation operation" has the same definition as set forth in Section 5.44.030 of the Leadville Municipal Code.

“Membership clubs and lodges” means permanent, headquarters-type, and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; civic, social, and fraternal organizations; country clubs (golf courses separately defined); labor unions and similar organizations; political organizations; professional membership organizations; other membership organizations.

“Microbrewery” means a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off-premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district

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

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

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

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

"Motel". See "Hotel".

“Motor vehicle parking lot” means an open space or an enclosed structure, exclusive of drives, turning areas or loading spaces, devoted to the parking of one or more motor vehicles.

“Museum” means an establishment operated as a repository for a collection of nature, scientific, literary curiosities, or objects of interest or works of art, not including the regular sale or distribution of the objects collected. Museums may include incidental retail and food/beverage sales.

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

“Nursery” means any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

“Nursing Home” means any facility which provides meals, lodging, and nursing care for compensation.

"Nudity" or "state of nudity" means:

a. — The appearance of human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female human breast; or

b. — A state of dress ~~which that~~ fails opaquely and fully to cover ~~the~~ human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

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

"Orchard" means the establishment, care, and harvesting of more than 25 fruit-bearing trees for the purpose of selling the fruit to others.

"Outdoor Guiding" means a use where professional outdoor guides lead groups on outdoor activities such as hunting, fishing, skiing, camping, photography, or other outdoor recreational activities. This may include accessory retail or rental of equipment for the patrons participating in the outings. Outdoor guiding does not include outdoor recreational equipment rentals.

"Outdoor recreation equipment rental" means any use where motorized recreation equipment such as snowmobiles, off-highway vehicles, or utility vehicles are stored or displayed outdoors for rental purposes. This use may include office space and repair and maintenance of rental equipment."

"Outdoor storage" means the storage of materials, refuse, junk and/or other similar items outside of a building.

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

"Outdoor storage, unscreened" means all outdoor storage not required to be screened from view from adjacent streets or the first floor of adjacent buildings.

"Outfitting". See Outdoor guiding.

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

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

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

~~"Parking area" means an open space or an enclosed structure, exclusive of drives, turning areas or loading spaces, devoted to the parking of one or more motor vehicles. "Park" means an area or facility to be used for recreation, exercise, sports, education, rehabilitation, or similar activities, or an area intended to enhance the enjoyment of natural features or natural beauty.~~

"Parking area. See "Motor vehicle parking lot".

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

Pipeline, Gas--"Personal services" means establishments primarily engaged in providing services involving the care of a person or his/her personal goods, including but not limited to, dry cleaning, cosmetics, beauty and barbershops, funeral services, and domestic services.

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

"Planned unit development" means an area of land, controlled by one or more landowners, to be developed or developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not necessarily correspond in lot size, bulk, or type of use, density, lot coverage, open space or other restriction to the provisions contained elsewhere in this chapter.

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

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

"Playground". See Park.

"Playing field". See Athletic facility.

"Processing". See Manufacture of materials.

"Professional and business offices" means professional or government offices including accounting, auditing, and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; court reporting services; data processing and computer services; detective agencies and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services; photography and commercial art studios; writers and artists offices outside the home. This does not include medical offices or offices that are incidental and accessory to another business or sales activity that is the principal use.

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

"Public utility facility" means major buildings, structures, and facilities including but not limited to generating and switching stations, electrical substations, water or sewer pumping stations, and telephone exchanges, related to the furnishing (storage and transportation) of utility services, including but not limited to electric, gas, telephone, cable, water, sewer, and public transit, to the public. Major public utility facilities located in rights-of-way or easements are not uses required to be zoned.

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

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

"Rental shop" means an establishment that conducts business with customers under conditions and terms agreed upon in a rental agreement or contract, which may be implied, explicit, or written.

"Restaurant" means an establishment where food and drink are prepared, table service is provided, and consumption takes place primarily within the principal structure.

"Restaurant with drive up windows" means a restaurant accommodating the patron's automobile from which the occupants may receive a service or in which products purchased from the restaurant may be received.

"Retail marijuana cultivation facility" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.

"Retail marijuana establishment" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.

"Retail marijuana products manufacturing facility" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.

"Retail marijuana store" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.

"Retail marijuana testing facility" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.

"Retail sales, general" means a facility or area for the retail sale of general merchandise or food to the general public for direct use and not for wholesale. This use includes but is not limited to sale of general merchandise, clothing and other apparel, flowers and household plants, dry goods, convenience and specialty foods, hardware, liquor, and similar consumer goods.

"Retail store, grocery" means a retail establishment that primarily sells food for off-site consumption, but also may sell other convenience and household goods for off-site consumption. Accessory uses may include but are not limited to sales of food or beverages for on-site consumption, grocery delivery services, florists, and pharmacy services.

"Retirement home". See Senior living facility.

"Riding Stables" means a structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

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

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

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

"Sawmill" means an operation or facility which has, as its predominant purpose, the sawing or planning of logs or trees into rough slabs.

"Scenic railways" means a railway that, in provides opportunities for the enjoyment of natural and/or man-made scenic resources and access or direct views to areas or scenes of exceptional beauty or historic or cultural interest. The aesthetic values of scenic routes often are protected and enhanced by regulations governing the development of property or the placement of outdoor advertising.

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

"Self-storage facility" means a building or group of buildings that are rented and designed, through individual compartments or controlled stalls, for self-service storage purposes.

"Senior living facility" means a multifamily dwelling or complex containing dwelling units designed for and principally occupied by senior citizens. Such facilities commonly include a congregate meals program in a common dining area but exclude institutional care facilities such as nursing homes as elsewhere defined.

"Service Station" means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, provided it is conducted within a completely enclosed building.

"Service Station, Gasoline" means any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories, where repair service, if any, is incidental. May include the sale of propane or kerosene as accessory uses.

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

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

a. ——— "Adult arcade" means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons per machine at any one time, are used to regularly show films, motion pictures, video cassettes, slides or other photographic, digital, or electronic reproductions depicting specified sexual activities or specified anatomical areas.

b. — "Adult bookstore, adult novelty store," or "adult video" store means a commercial establishment that devotes a significant or substantial portion of its business to any one or more of the following:

i. — The sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

ii. — The sale or rental of instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specified sexual activities; or

iii. — A significant or substantial portion of its business is shown by characteristics including, but not limited to, some or all of the following:

1. — A significant or substantial portion of its stock in trade consists of the items listed in subsections a. and/or b. above; or

2. — A significant or substantial portion of its revenues is derived from the rental or sale of items listed in subsections a. and/or ~~(b.)~~ above; or

3. — A significant or substantial portion of its floor space, shelf space or storage space is devoted to the items listed in subsections a. and/or b. above; or

4. — A significant or substantial portion of its advertising is devoted to the items listed in subsections a. and/or b. above.

c. — "Adult cabaret" means a nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment which regularly features live performances that are characterized by the exhibition of specified sexual activities or the exposure of specified anatomical areas.

d. — "Adult motel" means a motel, hotel or similar commercial establishment which offers public accommodations, for any form of consideration, and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical type of material by means of a sign visible from the public right-of-way, or by means of any off premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and offers a sleeping room for rent for a period of time less than five hours.

e. — "Adult motion picture theater" means any commercial establishment to which the public is permitted or invited, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown for more than one hundred (100) days annually that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas. Any establishment meeting the definition of an adult arcade is not an adult motion picture theater.

f. — "Nude modeling studio" means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. The provisions of this definition shall not apply to:

1. — A college, junior college, or university supported entirely or partly by taxation; or

2. — A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

3. — A business located in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

g. — "Sexual encounter center" means a business or commercial enterprise that regularly offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or ~~seminudity~~ semi nudity. This definition does not apply to any actions in compliance with any treatment or examination of another person for a bona fide medical purpose when such treatment or examination is conducted in a manner substantially consistent with reasonable medical practices, or to bona fide private parties not open to the general public.

h. — "Specified anatomical areas" means:

1. — Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the areola; or

2. — Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

i. — "Specified sexual activities" means:

1. — Human genitals in a state of sexual stimulation or arousal, or tumescence;

2. — Masturbation, actual or simulated;

3. — Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; and

4. — Fondling or other erotic touching of human genitals, pubic region, anus, buttocks, or female breasts.

~~"Short-Term Rental unit" shall have the same meaning as defined in Section 5.12.030 means a dwelling unit, including an accessory dwelling unit, or a guest unit within a dwelling unit or accessory dwelling unit that is available for lease for a term of less than thirty (30) consecutive days. The terms "vacation rental" and "short term vacation rental," if and as used elsewhere in this code, shall mean short term rental unit as defined in this section. The term "short term rental unit" shall not apply to hotels, motels, lodges, bed and breakfast establishments, hostels, or time share estates, or any guest units within such establishments.~~

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

"Solar energy facility" means a solar energy conversion system with a nameplate generating capacity of 10 kW or greater including solar panels, arrays, and related equipment, pipes, batteries, and wiring that converts sunlight to heat or electricity for use either on-site or off-site for delivery to a power grid.

Commented [TD10]: Each power plant or generating facility has a "nameplate capacity" which indicates the maximum output that the generator can produce. Therefore, this terminology is correct.

“Special event” means an organized event or a group activity including, but not apply limited to hotels, motels, lodges, bed and breakfast establishments, hostels, or time share estates, or any guest units within such establishments, a performance, live music, broadcast music, commercial entertainment, assembly, contest, exhibit, ceremony, athletic competition, reading, or other similar gatherings where anything of value is exchanged in return for attendance or entry into the event. Special events do not include wedding events.

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

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

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

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

“Substance Abuse Treatment Facility” means a facility for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use or addiction.

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

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

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

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

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

facilities mounted on towers for high voltage electrical transmission shall also be considered wall-mounted telecommunication facilities.

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

"Temporary Use" means a use that may or may not be permitted under the regulations for a given zoning district but may be allowed on a nonpermanent and temporary basis following the procedures in Chapter 17.64, Temporary Buildings and Uses.

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

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

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

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

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

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

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

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

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

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

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

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

"Use, accessory". See Accessory Use, Building, or Structure.

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

"Use, principal" means the main use to which the premises is devoted and the principal purpose for which the premises exists.

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

"Vacation Lodge". See Hotel.

"Vacation Rental". See Short Term Rental.

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

"Veterinary clinic" means an establishment that provides medical treatment and care to animals, and which may include temporary or overnight boarding of animals that are recuperating from treatment. A veterinarian clinic or office shall not include a kennel.

"Wholesale" means the sale of goods and merchandise for resale instead of for direct consumption.

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

Chapter 17.48 BY-RIGHT, CONDITIONAL AND PROHIBITED USES

Sections:

17.48.010 Designated.

The table on the following pages indicates which land-use(s) are allowed by right, which require an administrative permit, and which are conditional uses (that is, uses which the city may allow following detailed review) Any use not included in the list and/or identified as a by-right, administrative, or conditional use is prohibited and which are prohibited uses in each of the zoning districts listed in Section 17.12.010. Uses not listed are considered to be conditional uses.

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

R = A uUse allowed by right

~~P~~ = Use prohibited

A = A use requiring an Administrative ~~conditional use~~/permit as defined in Chapter 17.50-required

C = A use requiring a Conditional ~~use~~/permit required as defined in Chapter 17.52

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

	R-1	R-2	TR	RC	C	TC
1. Single-family dwelling- (attached and detached)	R	R	R	P	C	R
2. Two-family dwelling	R	R	R	P	C	R
3a. Multiple-family dwelling (3–4 units)	<u>CP</u>	<u>RC</u>	<u>P</u>	<u>P</u>	<u>C</u>	R
3b. Multiple-family dwelling (5+ units)	P	C	C	C	C	C
3c. Residential-d Dwellings above or below commercial use.	P	A	A	R	A	R
4. <u>Group Homes</u> Boarding and rooming houses and retirement homes	P	C	C	C	C	<u>R-C</u>
5a. Bed and breakfast establishments (3 or fewer guest units)	<u>A-C</u>	<u>CA</u>	<u>RA</u>	<u>CA</u>	<u>CA</u>	<u>RA</u>
5b. Bed and breakfast establishments (4 or more guest units)	P	C	C	C	C	C
6. <u>Hospitals, medical clinics, nursing homes</u> Rest, nursing, convalescent and hospices	P	C	C	<u>P-C</u>	<u>P-R</u>	C
7. <u>Group homes</u> <u>Family Dwellings</u>	R	R	C	P	P	C
8. <u>Hospitals, clinics, detoxification centers and mortuaries</u> <u>Child care</u> <u>Care</u>	<u>P-C</u>	C	C	C	<u>R-C</u>	C
9a. <u>Public and private schools and/or, child care facilities,</u> educational institutes <u>institutions,</u> and training centers	C	C	C	C	C	C
9b. Museums	C	C	C	R	R	R
10. Churches, <u>place of worship or assembly</u> <u>and</u> religious institutes including church camps	C	C	C	C	C	C
11. Private heliports	P	P	P	P	C	P
12. Cemeteries <u>and</u> mausoleums	P	P	P	P	C	P
13. Parks, playgrounds, <u>and</u> athletic facilities <u>and</u> playing fields	R	R	R	C	R	R
14. Essential public and government utility uses, facilities, services <u>and</u> <u>in</u> buildings, <u>excluding water storage and high</u>	C	C	C	C	<u>C-R</u>	C

Commented [TD1]: Per phone call with Chapin on 1/13, Changed from "R" to "C". PAT recommendation was only for 3-4 units.

Commented [TD2]: Per phone call with Chapin on 1/13, changed from "R" to "C". PAT recommendation was only for 3-4 units.

voltage electric transmission facilities and accessory uses to these facilities						
15. Agricultural production related to the commercial production of animals	P	P	P	P	C	P
15a. Orchards, nurseries, and related uses for commercial purposes	P	P	C	P	C	C
15b. Commercial greenhouses < 500 square feet	A	A	A	C	A	A
15c. Commercial greenhouses > 500 square feet	P	C	C	P	C	C
15d. Agricultural Production					C	C
16a. Commercial cutting and storage of firewood	€	€	€	P	C	€
16b. Sales of firewood	P	P	€	€	R	€
17. Roadside outlets for the sale of agricultural products	P	P	C	C	R	C
18. Commercial riding stables	P	P	P	P	C	P
19. Kennels and veterinary clinics	P	P	€	P	C	C
20. Campgrounds and travel trailer parks (See Chapter 17.56)	P	P	P	P	C	C
21. Mobile home parks (See Chapter 17.56)	P	P	€	P	P	P
22. Individual mobile homes	P	P	P	P	P	P
23. Outdoor amusement and entertainment facilities including scenic railways	C	C	C	C	C	C
24. Membership clubs and lodges	P	C	C	R	R	R
24a. Membership clubs and lodges Community Center	A	A	A	R	R	R
25. Professional and business offices	P	C	€R	R	R	R
26. Personal services outlets such as beauty and barber shops, Laundromats, travel agencies, etc.	P	C	C	R	R	R
27. Cottage industry	A	A	A	A	R	R
27a. Home occupation	R	R	R	R	R	R
28. General retail sales stores > 1,500 sq. ft.	P	C	C	R	R	C
28a. General retail sales stores < 1,500 sq. ft.	P	C	C	R	R	R
29. Hotels, motels and lodges, including time share estates	P	P	€	€	€	€
29a. Time share estates (3 or fewer guest units)	A	A	A	A	A	A
29b. Hotels, motels, or vacation lodges (3 or more guest units)	P	€	C	€R	€R	C
30. Restaurants and cafes	P	€	C	R	R	R
31. Microbrewery, distillery			C	R	R	C
31. Restaurants, fast food with drive-up windows	P	P	P	P	€	€
32. Bars and lounges, Brewpub	€	€	C	R	R	C
32a. Retail marijuana store	P	P	P	P	C	C
32b. Retail marijuana cultivation facility	P	P	P	P	C	P
32c. Retail marijuana products manufacturing facility	P	P	P	P	C	C
32d. Retail marijuana testing facility	P	€	€	P	C	C
32e. Retail/medical marijuana combined facility	P	P	P	P	C	C
32f. Medical marijuana center	P	P	P	P	C	C
32g. Medical marijuana infused product manufacturer	P	P	P	P	C	C
32h. Medical marijuana optional premises cultivation operation	P	P	P	P	C	P
33. Outdoor storage	P R	P R	P R	P R	€ R	P R
33a. Outdoor Storage Un-Screened	P	€	€A	P	C	€A
33b. Outdoor Storage Screened	P	A	A	P	CA	A
33c. Outdoor Storage of snow and associated debris						

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

fumes or other consequences that will impact the neighborhood						
53. Self-storage and mini-warehouse facilities	R	C	C	C	R	C
54. Non commercial garages	C	C	C	C	C	C
55. Accessory dwelling units (Refer to Ch. 17.60)	R	R	R	P	C	R
56. Sexually oriented business	P	P	P	P	C	P
57. Harboring of chickens	A	A	A	P	A	A
58a. Short-term rental units (1 short-term rental unit on a single parcel)**	R	R	R	R	R	R
58b. Short-term rental units on parcels that are not owner-occupied (3 or more short-term rental units on a single parcel)**	C	C	C	C	C	C
58c. Short-term rental units on owner-occupied parcels (2 or more short-term rental units on a single parcel)**	C	C	C	C	C	C
59. Rooming and boarding house; or and retirement home		C	C	C	C	R
60. Art and entertainment facility, outdoor	C	C	C	C	C	C
61. Art and entertainment facility, indoor			C	C	C	C
62. Art Gallery			R	R	R	R
63. Outdoor recreation equipment rental, without outdoor storage			R	R	R	R
64. Outdoor recreation equipment rental, with outdoor storage			C	C	R	R
65. Service Stations					C	C
66. Brewery					C	
67. Screened or un-screened outdoor storage			R		R	R
68. Wholesale sales and/or distribution with outdoor storage			R		R	C
69. Wholesale sales and/or distribution without outdoor storage		R	R	R	R	R
70. Self-storage facilities					R	R
71. Accessory use, building, or structure (Refer to Ch. 17.60)	R	R	R	R	R	R
73. Solar energy facility			A		A	A
74. Short-Term Rentals (Refer to Sec. 5.12 of LMC)	R	R	R	R	R	R
78. Rental Shop (Recreation and Entertainment)		C	C	R	R	R
79. Outdoor Guiding			R	R	R	R
80. Electric Vehicle (EV) Charging Stations, Public or Private			C	C	R	R
Retirement Home, Senior living center		R	R		R	R
Times Share estate						

Commented [TD3]: Per phone call with Chapin on 1/13, allowing ADUs in the RC zone conflicts with standard in Sec. 17.60.020.B which prohibits ADUs in the RC zone district. Therefore, reverted table back to current status of not allowing ADUs in the RC zone district.

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

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

**07/05/2023 Additional red-lined amendments proposed
by City Attorney and Planning Director**

Chapter 17.08 DEFINITIONS

17.08.010 Introduction.

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

17.08.020 Use Categories.

This section defines the general use categories listed in Table 1, By-Right, Conditional, and Prohibited Uses by Zoning District within Chapter 17.48. Definitions for specific use types are in alphabetical order in Section 17.08.030.

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

~~"Agricultural Uses" means uses related to the commercial production of field crops for food, fiber, or energy. Agricultural uses commonly include farming, orchards, horticulture, dairying, pasturage, and aquaculture. Agricultural uses also include the raising or breeding of livestock such as cattle, horses, poultry, and the keeping of bees. The term includes the necessary accessory uses for storing the products and inputs needed to produce them. means Agricultural and farming activities, including nurseries and facilities for processing and selling agricultural products. Agricultural uses commonly involve farming, dairying, pasturage, apiculture, horticulture, floriculture, and viticulture.~~

~~"Animal Services" means animal-related uses including the boarding and care of animals on a commercial basis. Accessory uses commonly include confinement facilities for animals, parking, and storage areas.~~

~~"Child Care Facilities" means any and all facilities or other activities allowed under the Child Care Licensing Act (Article 5, Part 3 of Title 26.5, C.R.S., as amended), and further regulated under the Colorado Department of Human Services' General Rules for Child Care Facilities, 12 C.C.R. 2509-8, Section 7.701 et seq., as amended. "Child care facilities" means establishments that provide care for children on a regular basis away from their primary residence. Accessory uses commonly include offices, recreation areas, and parking. This category commonly does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises.~~

"Community and Cultural Facilities" means uses including buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public.

"Educational Facilities" means public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses commonly include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

Commented [CM1]: Child care definitions throughout this section and the next section have been revised for consistency with and to cross-reference current state law and regulations.

“Food and Beverage” means establishments involved in serving prepared food or beverages for consumption on or off the premises. Accessory uses commonly include food preparation areas, offices, and parking.

“Group Living” means uses characterized by residential occupancy of a structure by a group of people who do not meet the definition of “household living.” Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Group living structures commonly have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

“Healthcare Facilities” means any facility providing direct health care to the public such as hospitals, mental health institutions, sanitariums, special care centers, and clinics.

“Household Living” means uses characterized by residential occupancy of a dwelling unit as a household. The tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of fewer than 30 days is classified under the “lodging facilities” category). Accessory uses commonly include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, home occupations, and parking of the occupants’ vehicles.

“Industrial Service and Research” means uses including the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Contractors and similar users may perform services off-site with few customers coming to the site. Accessory activities commonly include offices, parking, and indoor or outdoor storage.

“Lodging Facilities” means for-profit facilities where lodging, ~~meals, and the like are is~~ provided to transient visitors and guests for a defined period of time and where meals and the like may be provided.

“Manufacturing and Production” means uses including all transformative processes, regardless of whether or not the new product is finished or semi-finished. Production is commonly for commercial wholesaling rather than for direct sales.

“Marijuana Industries” means any and all industries, uses, facilities, licenses, or other activities allowed under the Colorado ~~Medical~~ Marijuana Code (~~Article 10 of Title 44~~Article 43.3 of Title 12, C.R.S., as amended) ~~and Colorado Retail Marijuana Code (Article 43.3 of Title 12, C.R.S., as amended), and further regulated under the Colorado Department of Revenue, Marijuana Enforcement Division’s~~ ~~Medical Marijuana Code~~Colorado Marijuana Rules, 17 C.C.R. 212-31, as amended ~~and/or Retail Marijuana Code, 1 C.C.R. 212-2, as amended.~~

“Offices” means uses that provide executive, management, administrative, or professional services, but do not involve the sale of merchandise except as incidental to a principal use. Common uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. Accessory uses commonly include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

“Parking Facilities” means any parking lot or parking structure that is used primarily or habitually for the parking of vehicles (excluding street or alley rights-of-way).

“Parks and Open Space” means uses with a focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have

Commented [CM2]: Updated citations to current state statutory sections.

few structures. Accessory uses commonly include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking.

"Personal Services" means establishments that provide individual services related to personal needs directly to customers at the site of the business, or that receive goods from or return goods to the customer, which have been treated or processed at that location or another location. Examples commonly include beauty and barbershops, laundromats, shoe repair shops, and tailor shops.

"Public Utilities and Facilities" means all lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services at a local level.

"Recreation and Entertainment" means uses that provide recreation or entertainment activities. Accessory uses commonly include concessions, snack bars, parking, and maintenance facilities.

"Retail" means uses involving the sale of a product directly to the final consumer for whatever purpose but not specifically or exclusively for the purpose of resale. Examples commonly include bookstores, antique stores, bakeries, grocery stores, household product stores, and similar uses.

~~"Temporary Use" means a use established for a limited duration of time with the intent to discontinue such use upon the expiration of the time period.~~

Commented [CM3]: Removed from this section, and definition for "temporary use" revised in next section.

"Vehicles and Equipment" means a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses commonly include incidental repair, storage, and offices.

~~"Veterinary Services" means animal related uses including the boarding and care of animals on a commercial basis. Accessory uses commonly include confinement facilities for animals, parking, and storage areas.~~

"Warehouse and ~~Freight Distribution~~" means uses that are engaged in the storage or movement of goods for themselves or other firms. Goods are commonly delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses commonly include offices, truck fleet parking, and maintenance areas.

Section 17.08.030 Definitions.

In this Title, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

"Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit that is incidental and subordinate in function and size to the principal building which ~~shall is~~ be located on the same parcel as the principal building.

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

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

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

"Agricultural production" means the production of a plant which will ultimately be sold at retail, and which utilizes the cultivating of soil, planting, raising, and harvesting crops.

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

"Alteration" means any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to, the erection, construction, reconstruction, or removal of any structure or substantial portion thereof. With regard to a mobile home park or travel trailer park, alteration would be any act or process that changes density, lot size, and boundaries.

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

~~"Animal boarding and training" means an establishment where domesticated animals other than household pets are housed, groomed, bred, boarded, trained, or sold. This term shall not include the operation of a kennel.~~

~~"Animal production related to the commercial production of animals" means raising or fattening animals for the sale of animals or animal products. The subsector This use comprises establishments, such as ranches, farms, and feedlots primarily engaged in keeping, grazing, breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale.~~

~~"Animal shelter" means a facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, established humane society, animal welfare society (such as the Society for the Prevention of Cruelty to Animals), or other nonprofit organization devoted to the welfare protection and humane treatment of animals.~~

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

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

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

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

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

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

"Art gallery" means an establishment engaged in the sale, loan, or display of paintings, photography, sculpture, or other works of art and may include art classes, art studio space, and special events. Art Gallery does not include libraries, museums, or non-commercial art galleries.

~~"Arts and entertainment facility" means a structure, complex, or facility for the presentation of performing arts. Arts and entertainment centers do not include any business defined as a sexually oriented business by this title.~~

~~"Arts and entertainment facility, indoor" means a structure, complex, or facility for the presentation of exclusively indoor performing arts, including indoor motion picture theaters, theaters for indoor live performances, and studios for arts education, such as dance or painting. Arts and entertainment facilities do not include any business defined as a sexually oriented business by this title.~~

Commented [CM4]: Changed to "entertainment facility". See below.

"Athletic facilities" means a developed recreation area that may contain a playground as well as fields for competitive sports such as baseball, football, or soccer. Bleachers or grandstands may be provided.

"Automotive, recreational vehicles, or marine sales and service" means the use of any building or land for a business involving the sale, leasing, and/or servicing of new or used motor vehicles, boats, snowmobiles, ATVs, OHVs, UTVs, or recreational vehicles. Such establishments may include office space, parking lots for the display and storage of vehicles available for sale, parking areas for customers and employees, vehicle repair facilities, facilities for body work, painting, or restoration, and sale of parts.

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

~~"Bars and lounges" mean a commercial enterprise establishments whose primary activity is the sale of alcoholic beverages, as that term is defined in the Colorado Liquor Code, to be consumed on the premises. Bars and lounges include taverns, night clubs, private clubs, bottle clubs, and similar facilities serving alcohol beverages or liquor.~~

Commented [CM5]: Alcohol/liquor uses definitions updated for consistency with state law definitions where appropriate and updated to cross-reference applicable state laws where needed.

"Bed and breakfast establishment" means a building or portion thereof with kitchen facilities for the customary service of breakfast at no additional cost to patrons and with ~~sleeping rooms~~ guest units designed to be used, let, or hired for occupancy by persons on a temporary basis and containing not more than five (5) such rooms.

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

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

"Brewery" means an ~~establishment that manufactures malt liquors, as that term is defined in the Colorado Liquor Code, on site, industrial use that brews ales, beers, meads, and/or similar beverages on site. Breweries are classified as a use that primarily manufactures beverages as defined herein and/or small breweries operated in conjunction with~~ Accessory uses may include but are not limited to a bars, restaurants, tasting rooms, or storage defined herein as an accessory use.

"Brewpub" means a restaurant that includes ~~the brewing of beer~~ the manufacturing of malt liquors, as that term is defined in the Colorado Liquor Code, as an accessory use. ~~The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. The area used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space, and the facility shall have a capacity no more than that of a microbrewery.~~

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

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

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

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

"Café," ~~See "Restaurant," means an informal restaurant primarily offering coffee, tea, and other beverages, where light refreshments and limited menu meals may also be sold.~~

"Campground" means an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, recreational vehicles, and/or similar movable or temporary sleeping quarters of any kind.

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

"Cemetery" means land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

"Child care center" means a facility, by whatever name known, which is maintained for the whole or part of the day for the care of five (5) or more children eighteen (18) years of age or younger and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated education purposes. ~~any facility providing less than 24 hour care for over six unrelated children during the daylight hours for compensation.~~

"Churches, places of worship or assembly " means any building which people regularly use to attend, participate in, or hold religious services, meetings, and other activities. This definition shall include buildings in which the religious services of any denomination are held. Accessory uses commonly include, but are not limited to, summer camps.

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

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

"Commercial cutting and storage of firewood" means the falling, chopping, cutting, splitting, or otherwise preparing timber or logs for commercial sales and/or storage of these products on the premises.

"Commercial greenhouse" means a greenhouse for agricultural production.

"Commercial use" means an activity involving the sale of goods or services carried out for profit.

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

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

"Community Center" means a building or portion of a building used for nonprofit, cultural, educational, recreational, religious, or social activities which is open to the public, or a designated part of the public, usually owned and operated by a public or nonprofit group or agency. Examples of community centers are learning centers, senior centers, and similar uses.

~~"Commercial cutting and storage of firewood" means the falling, chopping, cutting, splitting, or otherwise preparing timber or logs for commercial sales and/or storage of these products on the premises.~~

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

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

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

"Convalescent home". See Nursing Home

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

1. The cottage industry may offer articles for sale or delivery on the premises;

2. The cottage industry use must be contained within or adjacent to and integrated with the dwelling unit, but is not required to be operated entirely within the dwelling unit;

3. Up to three persons, in addition to those persons residing within the dwelling unit may be employed in the operation;

4. All signs must be in compliance with the applicable requirements for the zoning district in which the property is located;

5. No more than three motor vehicles, in addition to those owned and operated by the persons dwelling in the dwelling unit, may be parked or stored at or adjacent to the cottage industry premises for more than three hours continuously.

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

~~"Density" means the number of dwelling units per acre of land.~~

"Detoxification center". See "Substance Abuse Treatment Facility".

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

~~"Distillery" means a facility for the on-site distillation of spirits in quantities not to exceed 75,000 gallons per year. The distillery operation processes the ingredients to make spirits by mashing, cooking, and fermenting. The distillery operation does not include the production of any other alcoholic beverage. A distillery an establishment where spiritous liquors, as that term is defined in the Colorado Liquor Code, are manufactured. Accessory uses may include but are not limited to a tasting rooms open to the public.~~

~~"Distillery pub" means a restaurant that includes the manufacturing of spiritous liquors, as that term is defined in the Colorado Liquor Code, as an accessory use.~~

"Distribution facility" means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

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

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

"Dwelling, multifamily" means a dwelling, which may be a modular structure, that was designed to house or houses more than two families, as defined herein.

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

"Dwelling, single-family attached" means a dwelling, which may be a modular structure, designed for occupancy and ownership by one family that is connected by a common wall to another single-family dwelling, such as a townhome.

"Dwelling, two-family" means a dwelling, which may be a modular structure, designed for occupancy by two families, such as a duplex.

"Educational institution" means public, private, or parochial institution at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

"Electric vehicle (EV) charging station" means a motor vehicle parking lot where EVs can either recharge batteries for free or for a fee. EV charging stations may be allowed as an accessory use to any use where parking is required or provided.

"Electric vehicle (EV) charging station, private" means an EV charging station that is not open to the general public.

"Electric vehicle (EV) charging station, public" means an EV charging station that is accessible without restrictions on which drivers can utilize the station.

"Entertainment facility" means a structure, complex, or facility used for entertainment and amusement activities. Entertainment facilities, either indoor or outdoor, do not include any business defined as a sexually-oriented business by this title or athletic facilities.

"Entertainment facility, indoor" means a structure, complex, or facility for the presentation of exclusively indoor amusement and entertainment, including indoor motion picture theaters, theaters for indoor live performances, studios for arts education, such as dance or painting, bowling alleys, video arcades, and shooting ranges or arcades.

"Entertainment facility, outdoor" means a structure, complex, or facility used for amusement and entertainment that is fully or partially outdoors, including concert facilities, rodeos, racing facilities, golf courses or golf driving ranges, fairgrounds, and amusement parks.

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

"FAA" means the Federal Aviation Administration.

"Fabrication". See "Manufacture of materials".

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

24-34-301, C.R.S.; additional necessary persons employed in the care and supervision of such handicapped or disabled persons.

"Family day care" means the use of a residence for the care of six or fewer children other than the occupant's own children for periods of less than 24 hours per day. Home child care is considered a home occupation. "Family child care home" means a facility for child care operated with or without compensation or educational purposes in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home. "Family child care home" may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types of family child care homes designated under the General Rules for Child Care Facilities, 12 C.C.R. 2509-8, Section 7.701 et seq., as amended. For purposes of this definition, the term "place of residence" means the place or abode where a person actually lives and provides child care.

Commented [CM6]: Revised to be consistent with the definition and rules for family child care homes that the city adopted when it passed Ordinance No. 5, Series 2022.

"Farm stand" means a temporary building or structure, not to exceed a gross floor area of 500 square feet, from which agricultural products produced on the premises are sold.

"Fence" means: aAn artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

"FCC" means the Federal Communication Commission.

"Formula business" means any restaurant, café, bar and lounge, hotel, rooming or boarding house, any retail business, automotive sales and services, and any personal services that has seven or more other establishments in operation, or with local land use or permit entitlements already approved and effective, located anywhere in the United States. Electric vehicle charging stations shall not be considered formula businesses. In addition to the seven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: A standardized array of merchandise, standardized array of services, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized sign, a trademark, or a service mark.

1. "Standardized array of merchandise" means fifty (50) percent or more of in-stock merchandise from a single distributor bearing uniform markings.
2. "Standardized array of services" means as a common menu or set of services priced and performed in a consistent manner.
3. "Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.
4. "Service mark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.
5. "Facade" means the face or front of a building, including awnings, looking onto a street or an open space.
6. "Décor" means the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

7. "Color scheme" means a selection of colors used throughout the establishments, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

8. "Uniform apparel" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags), and standardized colors of clothing.

Commented [CM7]: Definition for "formula business" added back in from adoption of formula business overlay district ordinance (Ordinance No. 3, Series 2022).

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

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

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

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

"Greenhouse" means a building with a roof and sides constructed of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

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

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

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

A group home or residential group home shall not include fewer than eight persons occupying a residential dwelling unit and living as a single ~~housekeeping unit~~ household if the occupants are handicapped persons as defined in Title VIII or the Civil Rights Act of 1968, as amended by the Fair

Housing Amendments Act of 1988; or disabled persons as defined by Section 24-34-501, C.R.S., and such additional necessary persons employed in the care and supervision of such handicapped or disabled persons.

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

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

"Harboring of chickens" means activities, definitions, and regulations set forth in Section 6.04.020 of the Leadville Municipal Code.

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

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

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

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

"Hospice". See Nursing Home.

"Hospital" means an institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, including as related facilities, laboratories, outpatient departments, training facilities, and staff offices.

~~"Hostel" means an establishment providing transient, overnight accommodations, typically characterized by low cost, shared use of a self-service kitchen, common areas, sleeping rooms, guest units (either private or shared) and bathroom facilities.~~

"Hotel" means a building or portion thereof with ~~sleeping rooms, guest units~~ used or designated for use by or hired for occupancy by persons on a temporary basis and including at least 275 square feet.

"Improvements" means any utility, roadway, survey monument, building, structural or other changes to the land as may be required by or provided for in this title. "Junkyard" means a building, structure, or parcel of land or any combination thereof used for the collection, storage or sale of waste paper, rags, scrap metal, or discarded or abandoned materials and equipment or parts thereof or for the collecting, disassembly, storage or salvaging or demolition of vehicles, machinery or other materials and including the commercial sale of whole items or parts thereof, but not including architectural feature salvage.

~~"Kennel" means an establishment in which animals are boarded, groomed, bred, or trained for commercial gain. This does not include stables.~~

~~1. Any building, structure, area, or open space devoted wholly or partially to the raising, boarding or harboring of five or more domesticated animals that are over four months of age; or~~

~~2. Any establishment for the boarding, raising or training of animals, domesticated, for which a fee is charged. The such establishment may include incidental grooming or the sale of pet supplies.~~

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

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

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

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

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

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

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

"Lumberyard" means an area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

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

"Manufactured home" means a single-family dwelling which: (1) is partially or entirely manufactured in a factory; (2) is installed on an engineered, permanent foundation; (3) has brick, wood, or cosmetically equivalent siding and a pitched roof; (4) is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended; and (5) is built for the Colorado climate and snow load according to the Department of Housing and Urban Development Standards established under the provisions of 42 U.S.C. Section 5401, et seq.

"Manufacture of materials" means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, or resins.

~~"Marijuana hospitality business" means a facility, which may be mobile, licensed pursuant to the Colorado Marijuana Code to permit the consumption of marijuana in accordance with the Colorado Marijuana Code and the city's Code.~~

Commented [CM8]: Marijuana terms added or revised to be consistent with state marijuana laws and definitions where appropriate.

~~"Marijuana hospitality and sales business" means a facility, which cannot be mobile, licensed under the Colorado Marijuana Code to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of the city's Code.~~

~~"Marijuana research and development facility" means a facility licensed pursuant to and used for the purposes set forth in the Colorado Marijuana Code at C.R.S. 44-10-507.~~

"Mausoleum". See Cemetery.

"Medical Clinic" means a building or group of buildings in which the primary use is the provision of health care services to patients or clients. Examples include but are not limited to medical and dental laboratories, blood banks, oxygen providers, integrative medicine and holistic or homeopathic therapies, and other miscellaneous types of medical services.

~~"Medical marijuana center" has the same definition as set forth in Section 5.44.030 of the Leadville Municipal Code.~~

~~"Medical marijuana establishment" has the same definition as set forth in Section 5.44.030 of the Leadville Municipal Code.~~

~~"Medical marijuana optional premises cultivation operation" has the same definition as set forth in Section 5.44.030 of the Leadville Municipal Code.~~

~~"Medical marijuana store" means a facility, licensed pursuant to C.R.S. 44-10-501, where medical marijuana is sold to registered patients or primary caregivers as defined in section 14 of article XVIII of the Colorado constitution. This definition does not include primary caregivers.~~

~~"Medical marijuana products manufacturer" means a facility licensed pursuant to and described in the Colorado Marijuana Code at C.R.S. 44-10-503.~~

"Medical marijuana cultivation facility" means a facility licensed pursuant to and used for the purposes set forth in the Colorado Marijuana Code at C.R.S. 44-10-502.

"Medical marijuana testing facility" means a facility licensed pursuant to and used for the purposes set forth in the Colorado Marijuana Code at C.R.S. 44-10-504.

"Medical marijuana transporter premises" means the premises permitted under C.R.S. 44-10-505 to be maintained and operated by a person licensed pursuant to the Colorado Marijuana Code to operate a business as described in C.R.S. 44-10-505.

"Membership clubs and lodges" means permanent, headquarters-type, and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; civic, social, and fraternal organizations; country clubs (golf courses separately defined); labor unions and similar organizations; political organizations; professional membership organizations; other membership organizations.

~~"Microbrewery" means a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district~~

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

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

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

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

"Modular structure" means a structure consisting of prefabricated modules that are primarily built off-site in a factory and are assembled on-site. Modular structures may be any type of residential structure or commercial structure. Modular structures may comprise an entire structure or a portion of a structure. A modular structure is not a manufactured home or a mobile home.

Commented [CM9]: Added to expressly allow for this type of structure within the city.

"Motel". See "Hotel".

“Motor vehicle parking lot” means an open space or an enclosed structure, exclusive of drives, turning areas or loading spaces, devoted to the parking of one or more motor vehicles.

“Museum” means an establishment operated as a repository for a collection of nature, scientific, literary curiosities, or objects of interest or works of art, not including the regular sale or distribution of the objects collected. Museums may include incidental retail and food/beverage sales.

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

“Nursery” means any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

“Nursing Home” means any facility which provides meals, lodging, and nursing care for compensation.

“Nudity” or “state of nudity” means:

a. The appearance of human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female human breast; or

b. A state of dress that fails opaquely and fully to cover the human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

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

“Orchard” means the establishment, care, and harvesting of more than 25 fruit-bearing trees for the purpose of selling the fruit to others.

“Outdoor ~~g~~Guiding” means a use where professional outdoor guides lead groups on outdoor activities such as hunting, fishing, skiing, camping, photography, or other outdoor recreational activities. This may include accessory retail or rental of equipment for the patrons participating in the outings. Outdoor guiding does not include outdoor recreational equipment rentals.

“Outdoor recreation equipment rental” means any use where motorized recreation equipment such as snowmobiles, off-highway vehicles, or utility vehicles are stored or displayed outdoors for rental purposes. This use may include office space and repair and maintenance of rental equipment.”

“Outdoor storage” means the storage of materials, refuse, junk and/or other similar items outside of a building.

“Outdoor storage of snow”:- means the storage of snow outside a building.

“Outdoor storage screened” means all outdoor storage required to be screened from view from adjacent streets or the first floor of adjacent buildings.

“Outdoor storage, unscreened” means all outdoor storage not required to be screened from view from adjacent streets or the first floor of adjacent buildings.

“Outfitting”. See Outdoor guiding.

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

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

"Park" means an area or facility to be used for recreation, exercise, sports, education, rehabilitation, or similar activities, or an area intended to enhance the enjoyment of natural features or natural beauty.

"Parking area. See “Motor vehicle parking lot”.

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

"Personal services" means establishments primarily engaged in providing services involving the care of a person or his/her personal goods, including but not limited to, dry cleaning, cosmetics, beauty and barbershops, funeral services, and domestic services.

"Pet store" means an establishment primarily engaged in the retail sale of household pets.

"Planned unit development" means an area of land, controlled by one or more landowners, to be developed or developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not necessarily correspond in lot size, bulk, or type of use, density, lot coverage, open space or other restriction to the provisions contained elsewhere in this chapter.

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

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

“Playground”. See Park.

“Playing field”. See Athletic facility.

“Processing”. See Manufacture of materials.

“Professional and business offices” means professional or government offices including accounting, auditing, and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; court reporting services; data processing and computer services; detective agencies and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services; photography and commercial art studios; writers and artists offices outside the home. This does not include medical offices or offices that are incidental and accessory to another business or sales activity that is the principal use.

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

"Public utility facility" means major buildings, structures, and facilities including but not limited to generating and switching stations, electrical substations, water or sewer pumping stations, and telephone exchanges, related to the furnishing (storage and transportation) of utility services, including but not limited to electric, gas, telephone, cable, water, sewer, and public transit, to the public. Major public utility facilities located in rights-of-way or easements are not uses required to be zoned.

"Public and government facility, service, or building" means: ~~the use of a property for a public purpose by any department or branch of government. Examples include but are not limited to libraries, post offices, law enforcement, and emergency services.~~

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

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

"Rental shop" means an establishment that conducts business with customers under conditions and terms agreed upon in a rental agreement or contract, which may be implied, explicit, or written.

"Restaurant" means an establishment where food and drink are prepared, table service is provided, and consumption takes place primarily within the principal structure, including but not limited to cafés.

"Restaurant with drive up windows" means a restaurant accommodating the patron's automobile from which the occupants may receive a service or in which products purchased from the restaurant may be received.

~~"Retail marijuana cultivation facility" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.~~

~~"Retail marijuana establishment" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.~~

~~"Retail marijuana products manufacturing facility" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.~~

~~"Retail marijuana store" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.~~

~~"Retail marijuana testing facility" has the same definition as set forth in Section 5.48.030 of the Leadville Municipal Code.~~

"Retail marijuana cultivation facility" has the same meaning as "marijuana cultivation facility" as defined in section 16(2)(h) of article XVIII of the Colorado constitution.

“Retail marijuana products manufacturer” has the same meaning as “marijuana product manufacturing facility” as defined in section 16(2)(j) of article XVIII of the Colorado constitution.

“Retail marijuana store” has the same meaning as defined in section 16(2)(n) of article XVIII of the Colorado constitution.

“Retail marijuana testing facility” means “marijuana testing facility” as defined in section 16(2)(l) of article XVIII of the Colorado constitution and that is licensed pursuant to the Colorado Marijuana Code.

“Retail marijuana transporter premises” means the premises permitted under C.R.S. 44-10-605 to be maintained and operated by a person licensed by the Colorado Marijuana Code to operate a business as described in C.R.S. 44-10-605.

“Retail sales, general” means a facility or area for the retail sale of general merchandise or food to the general public for direct use and not for wholesale. This use includes but is not limited to sale of general merchandise, clothing and other apparel, flowers and household plants, dry goods, convenience and specialty foods, hardware, ~~liquor~~ alcohol beverages, and similar consumer goods.

~~“Retail store, grocery” means a retail establishment that primarily sells food for off site consumption, but also may sell other convenience and household goods for off site consumption. Accessory uses may include but are not limited to sales of food or beverages for on site consumption, grocery delivery services, florists, and pharmacy services.~~

“Retirement home”. See Senior living facility.

~~“Riding Stables” means a structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.~~

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

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

“Rooming or boarding house” means a building or portion thereof with ~~sleeping rooms~~ guest units designed to be used, let or hired for occupancy by persons ~~on a temporary basis~~ long-term rental units or on a permanent basis and containing between one and five such guest ~~rooms~~ units.

Commented [CM10]: Revised to be consistent with the city's definition of "rooming and boarding house" adopted in Ordinance No. 6, Series 2020.

“Sawmill” means an operation or facility which has, as its predominant purpose, the sawing or planning of logs or trees into rough slabs.

“Scenic railways” means a railway that, in provides opportunities for the enjoyment of natural and/or man-made scenic resources and access or direct views to areas or scenes of exceptional beauty or historic or cultural interest. The aesthetic values of scenic routes often are protected and enhanced by regulations governing the development of property or the placement of outdoor advertising.

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

“Self-storage facility” means a building or group of buildings that are rented and designed, through individual compartments or controlled stalls, for self-service storage purposes.

“Senior living facility” means a multifamily dwelling or complex containing dwelling units designed for and principally occupied by senior citizens. Such facilities commonly include a congregate meals program in a common dining area but exclude institutional care facilities such as nursing homes as elsewhere defined.

“Service Station” means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, provided it is conducted within a completely enclosed building.

“Service Station, Gasoline” means any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories, where repair service, if any, is incidental. May include the sale of propane or kerosene as accessory uses.

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

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

a. “Adult arcade” means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons per machine at any one time, are used to regularly show films, motion pictures, video cassettes, slides or other photographic, digital, or electronic reproductions depicting specified sexual activities or specified anatomical areas.

b. “Adult bookstore, adult novelty store,” or “adult video” store means a commercial establishment that devotes a significant or substantial portion of its business to any one or more of the following:

i. The sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

ii. The sale or rental of instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specified sexual activities; or

iii. A significant or substantial portion of its business is shown by characteristics including, but not limited to, some or all of the following:

1. A significant or substantial portion of its stock in trade consists of the items listed in subsections a. and/or b. above; or

2. A significant or substantial portion of its revenues is derived from the rental or sale of items listed in subsections a. and/or (b) above; or

3. A significant or substantial portion of its floor space, shelf space or storage space is devoted to the items listed in subsections a. and/or b. above; or

4. A significant or substantial portion of its advertising is devoted to the items listed in subsections a. and/or b. above.

c. "Adult cabaret" means a nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment which regularly features live performances that are characterized by the exhibition of specified sexual activities or the exposure of specified anatomical areas.

d. "Adult motel" means a motel, hotel or similar commercial establishment which offers public accommodations, for any form of consideration, and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical type of material by means of a sign visible from the public right-of-way, or by means of any off premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and offers a sleeping room for rent for a period of time less than five hours.

e. "Adult motion picture theater" means any commercial establishment to which the public is permitted or invited, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown for more than one hundred (100) days annually that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas. Any establishment meeting the definition of an adult arcade is not an adult motion picture theater.

f. "Nude modeling studio" means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. The provisions of this definition shall not apply to:

1. A college, junior college, or university supported entirely or partly by taxation; or

2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

3. A business located in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

g. "Sexual encounter center" means a business or commercial enterprise that regularly offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or semi nudity. This definition does not apply to any actions in compliance with any treatment or examination of another person for a bona fide medical purpose when such treatment or examination is conducted in a manner substantially consistent with reasonable medical practices, or to bona fide private parties not open to the general public.

h. "Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the areola; or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - i. "Specified sexual activities" means:
 1. Human genitals in a state of sexual stimulation or arousal, or tumescence;
 2. Masturbation, actual or simulated;
 3. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; and
 4. Fondling or other erotic touching of human genitals, pubic region, anus, buttocks, or female breasts.

"Short-Term Rental" or "short-term rental unit" shall have the same meaning as defined in Section 5.12.030.

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

"Solar energy ~~facility~~system" means an energy system, including but not limited to a ground-mounted solar energy system, which converts solar energy to usable thermal, mechanical, chemical, or electrical energy to meet all or a significant part of a structure's energy requirements Solar energy systems may be comprised of devices such as a solar energy conversion system with a nameplate generating capacity of 10 kW or greater including solar panels, arrays, and related equipment, pipes, batteries, and wiring that converts sunlight to heat or electricity for use either on site or off site for delivery to a power grid.

"Special event" means an organized event or a group activity including, but not limited to a performance, live music, broadcast music, commercial entertainment, assembly, contest, exhibit, ceremony, athletic competition, reading, or other similar gatherings where anything of value is exchanged in return for attendance or entry into the event. Special events do not include wedding events.

"Stable" means an establishment designed for feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation.

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

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

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

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

"Substance ~~a~~Abuse ~~T~~Treatment ~~F~~Facility" means a facility for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use or addiction.

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

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

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

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

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

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

"Temporary ~~u~~Use" means a use established for a limited duration of time with the intent to discontinue such use upon the expiration of the time period. Such use ~~a use that~~ may or may not be permitted under the regulations for a given zoning district but may be allowed on a nonpermanent and temporary basis following the procedures in Chapter 17.64, Temporary Buildings and Uses.

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

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

Commented [CM11]: Removed because it conflicts with table of uses, which shows time shares approved via administrative permit.

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

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

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

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

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

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

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

"Travel trailer unit" means any pickup camper, a pickup with shell, motorhome, travel trailer, tent trailer, or similar mobile unit with sleeping quarters and not exceeding eight feet in body width at its widest point or forty (40) feet in body length and designed and used principally for recreational purposes or for the support of recreational or commercial uses.

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

"Use, accessory". See Accessory Use, Building, or Structure.

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

"Use, principal" means the main use to which the premises is devoted and the principal purpose for which the premises exists.

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

"Vacation ~~H~~odge". See Hotel.

"Vacation ~~R~~ental". See Short-~~T~~erm ~~R~~ental.

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

~~"Veterinary clinic" means an establishment that provides medical treatment and care to animals, and which may include temporary or overnight boarding of animals that are recuperating from treatment. A veterinarian clinic or office shall not include a kennel. "Veterinary hospital" means an establishment that provides medical treatment and care to animals and which may include temporary or overnight boarding of animals that are recuperating from treatment. Common accessory uses may include but are not limited to kennels, parking, and storage.~~

-"Wholesale" means the sale of goods and merchandise for resale instead of for direct consumption.

"Winery" means an establishment where vinous liquors, as that term is defined in the Colorado Liquor Code, are manufactured. Accessory uses may include but are not limited to bars, restaurants, tasting rooms, or storage.

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

17.48 – BY-RIGHT, CONDITIONAL, AND PROHIBITED USES

17.48.010 – Designated

The table on the following pages below indicates which principal use(s) are allowed by right, which require an administrative permit, and which uses are conditional uses (that is, uses which the city may allow following detailed review). Any use not included in the table list shall reviewed for compliance with 17.48.20. A blank square in the table below indicates that a use is prohibited and/or identified as a by-right, administrative, or conditional use is prohibited.

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

R = A use allowed by Right
 A = A use requiring an Administrative Permit as defined in Chapter 17.50
 C = A use requiring a Conditional Permit as defined in Chapter 17.52

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
Residential Uses							
Household Living	Dwellings above or below commercial use		A	A	R	A	R
	Multifamily dwelling (3-4 units)	C	R	R		R	R
	Multifamily dwelling (5+ units)		C	C	C	C	C
	Single-family dwelling (attached and detached)	R	R	R		C	R
	Two-family dwelling	R	R	R		C	R
	<u>Mobile home park</u>			<u>C</u>			
Group Living	Group <u>h</u> Homes		C	C		<u>C</u>	C
	Retirement <u>h</u> Home, <u>s</u> Senior living <u>facility</u> <u>center</u>		R	C		C	C
<u>Lodging Facilities</u>	<u>Short-t</u> Term <u>r</u> entals (<u>Refer to Ch</u> See. 5.12)	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
Public, Institutional, and Civic uses							
Community and Cultural Facilities	Cemeteries or mausoleums					C	
	Churches, place of worship or assembly, <u>or religious institutes including church camps</u>	C	C	C	C	C	C
	Community Center	A	A	A	R	R	R
	Membership clubs and lodges		C	C	R	R	R
	Museums	C	C	C	R	R	R

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
Child Care Facilities	Childcare center	C	C	C	C	C	C
Educational Facilities	School and/or educational institutions	C	C	C	C	C	C
Parks and Open Space	Parks, Playgrounds, athletic facilities	R	R	R	C	R	R
Public Utilities and Facilities	PEssential public and government-utility-uses, facilities, services or buildings.	C	C	C	C	C	C
	<u>Public and government, facilities, services or buildings.</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
	Recycle Center					C	C
	Solar energy facility			A		A	A
	Telecommunication facility	C	C	C	C	C	C
Healthcare Facilities	Hospitals, medical clinics, or nursing homes, <u>or substance abuse treatment facilities</u>		C	C	C	R	C
<u>Animal Services</u>	<u>Animal shelter</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Commercial Uses							
Agricultural Uses	Agricultural production					C	C
	Agricultural production related to the commercial production of animals					C	
	Commercial cutting and storage of firewood					C	
	Commercial greenhouses <500sf	A	A	A	C	A	A
	Commercial greenhouses >500sf		C	C		C	C
	Lumber yard or sawmill					C	
	Orchards, nurseries, and/or related uses for commercial purposes			C		C	C
	Roadside outlets for the sale of agricultural products <u>Farm stand</u>			C	C	C	C
Food and Beverage	Bars and lounges, Brew pub, <u>Distillery pub</u>			C	R	R	C
	Microbrewery, Distillery			C	R	R	C
	-Restaurants			C	R	R	R
	<u>Restaurant with drive up windows</u>					<u>C</u>	<u>C</u>
Lodging Facilities	Bed and Breakfast establishments	C	C	R	C	C	R
	<u>Hotels and, motels, or vacation lodges</u> hostels			C	R	R	C
	Rooming and boarding house or retirement home		C	C	C	C	R

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
	Time share estate	A	A	A	A	A	A
Marijuana Industries	Medical marijuana center <u>Medical and/or retail marijuana store</u>					C	C
	Medical marijuana infused product manufacturer <u>Marijuana hospitality business</u>					C	C
	Medical marijuana optional premises cultivation operation <u>Marijuana hospitality and sales business</u>					C	<u>C</u>
	Retail marijuana cultivation facility					C	
	Retail marijuana products manufacturing facility					C	C
	Retail marijuana store					C	C
	Retail marijuana testing facility					C	C
	Retail/medical marijuana combined facility					C	C
Offices	Professional and business offices		C	R	R	R	R
Parking Facilities	Motor vehicle parking lots		C	C	C	R	C
Personal Services	Personal services		C	C	R	R	R
Recreation and Entertainment	Art and Entertainment facility, indoor			C	C	C	C
	Art and Entertainment facility, outdoor	C	C	C	C	C	C
	Art Gallery			R	R	R	R
	Outdoor Guiding			R	R	R	R
	Outdoor recreation equipment rental, with outdoor storage			C	C	R	C
	Outdoor recreation equipment rental, without outdoor storage			R	R	R	R
	Riding Stables <i>(not permitted per Sec. 6.04.030)</i>					C	
	Scenic railways	C	C	C	C	C	C
	Campgrounds and <u>Travel trailer park</u> (See Ch. 17.56)					C	C
Retail	General retail sales >1500sf		C	C	R	R	C
	General retail sales <1500sf		C	C	R	R	R
	<u>Architectural feature salvage</u>					<u>C</u>	<u>C</u>
	Rental Shop		C	C	R	R	R
	Sexually oriented business					C	
Vehicles and Equipment	Automotive, recreational vehicles, or marine sales and service, excluding service stations				C	R	C

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
	EV Charging Station, Public or Private			C	C	R	R
	Motor vehicle parking lot		C	C	C	R	C
	Service Station					C	C
	Service station, gasoline					R	
Veterinary Animal Services	Kennels, and-veterinary clinics <u>hospitals and pet stores</u>					C	C
Industrial Uses							
Manufacturing and Production	<u>Brewery, Distillery, Winery</u>					C	
	Cottage Industry	A	A	A	A	R	R
	Manufacture of materials not otherwise listed and which will cause noise, heat, dust, fumes or other adverse consequences that will impact the neighborhood.			C		C	C
	Manufacture of materials not otherwise listed and which will not cause noise, heat, dust, fumes, excessive traffic or parking or other adverse consequences that will impact the neighborhood.			A	A	R	R
<u>Industrial Service and Research</u>	<u>Repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products</u>			<u>C</u>		<u>C</u>	<u>C</u>
Warehouse and Distribution	Non-commercial garages	C	C	C	C	C	C
	Outdoor storage of snow	R	R	R	A	R	R
	Screened or un-screened outdoor storage			A		C	A
	Self-storage facilities					R	C
	Wholesale sales and/or distribution <u>facility</u> with outdoor storage			C		R	C
	Wholesale sales and/or distribution <u>facility</u> without outdoor storage		C	C	R	R	C
<u>Marijuana Industries</u>	<u>Medical and/or retail marijuana cultivation facility</u>					<u>C</u>	
	<u>Medical and/or retail marijuana products manufacturer</u>					<u>C</u>	
	<u>Medical and/or retail marijuana testing facility</u>					<u>C</u>	
	<u>Marijuana research and development facility</u>					<u>C</u>	

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
	<u>Medical and/or retail marijuana transporter premises</u>					<u>C</u>	
Accessory Uses							
Accessory Uses	Accessory dwelling unit (Refer to Ch. 17.60)	R	R	R		C	R
	Accessory use, building, or structure (Refer to Ch. 17.60)	R	R	R	R	R	R
	Harboring of chickens	A	A	A		A	A
	Home occupation	R	R	R	R	R	R
	Outdoor Storage	R	R	R	R	R	R
	Short-Term Rentals (Refer to Sec. 5.12 of LMC)	R	R	R	R	R	R
	Solar energy facility system	<u>-A</u>	<u>-A</u>	A	<u>-A</u>	A	A
	<u>Family child care home</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
	<u>Garages, noncommercial</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
	<u>Greenhouses</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
	<u>Swimming pools and hot tubs</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
	<u>Satellite dishes</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>A</u>	<u>R</u>	<u>R</u>
	<u>Fences up to 6 ft. in height</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>A</u>	<u>R</u>	<u>R</u>
	<u>Fences exceeding 6 ft. in height</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
	<u>Amateur radio and television towers</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>A</u>	<u>R</u>	<u>R</u>
<u>Individual storage sheds</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	
<u>Fallout shelters for personal uses</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	

17.48.020- ~~Uses not itemized~~listed.

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

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

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

A. Purpose. The purpose of this section is to promote the health, safety, convenience, and welfare of the present and future inhabitants of the city by protecting and enhancing the character of the city's zoning districts and providing for efficient and fair development that respect property rights and ensure quality development.

B. Generally. If a proposed use is not listed in section 17.48.010, then the planning official shall decide whether the proposed use is either functionally comparable to, or a subcategory of, a by-right, conditional, administratively permitted, or prohibited use. The planning official shall apply the following criteria to decide how the use will be regulated by this title:

1. A proposed use is a subcategory of a by-right, conditional, or administratively permitted use if, with regard to each of the decision criteria enumerated in subsection B, the proposed use's impacts are not materially greater than the by-right, conditional, or administratively permitted use with the more general NAICS code.
2. A proposed use is functionally comparable to a by-right, conditional, administratively permitted use if it is reasonably comparable to the by-right, conditional, or administratively permitted use, and with regard to each of the decision criteria enumerated in subsection B., the proposed use has no greater impacts than the by-right, conditional, or administratively permitted use with which it is functionally comparable.

C. Decision Criteria. The following decision criteria shall be evaluated when the planning official decides whether a proposed use is a subcategory of, or is functionally comparable to, a by-right, conditional, or administratively permitted use:

1. Parking demand;
2. Average daily and peak hour trip generation (cars and trucks);
3. Impervious surface;
4. Noise;

5. Lighting;

6. Dust;

7. Odors;

8. Potentially hazardous conditions, such as projectiles leaving the site;

9. Use and storage of hazardous materials;

10. Character of buildings and structures;

11. Character of operation; and

12. Hours of operation.

D. Effect of Determination.

1. If the planning official approves an application for a decision pursuant to this section, then the use is allowed as a by-right, conditional, or administratively permitted use, with the same restrictions as the use to which it was compared for the purposes of the favorable decision.

If the planning official determines that a proposed use is not a subcategory of, or functionally comparable to, a by-right, conditional, or administratively permitted use, then the proposed use is a prohibited use.

17.48.030 Manufactured homes and mobile homes.

- A. **Manufactured Homes.** A manufactured home, as defined in Section 17.08.020, is treated as a single-family dwelling. A manufactured home is a permitted use in any zoning district where a single-family dwelling is a permitted use. A manufactured home is a prohibited use in those zoning districts in which a single-family dwelling is prohibited, and the installation of a manufactured home requires a conditional use permit or certificate of appropriateness in those zoning districts where one is required for a single-family dwelling. In all respects, a manufactured home is to be treated as a single-family dwelling for the purposes of this section. C.R.S. 31-23-301(5) applies.
- B. **Mobile homes.**
1. Independent mobile homes, as defined in Section 17.08.020, are allowed to be placed only in approved mobile home parks ~~or in the industrial zoning district by a conditional use permit pursuant to Chapter 17.36.~~
 2. Dependent mobile homes as defined in Section 17.08.020, shall be occupied only in approved travel trailer parks and city-designated time limited travel trailer parking areas. Dependent mobile homes shall not be parked for the purposes of storage or habitation (see the definition of habitation in Section 17.08.020) on any city street, alley, or roadway. All cooking apparatus, utilities, and heating systems in dependent mobile homes must be fueled by liquid propane or natural gas. Solid or other liquid fuels are specifically prohibited.

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

Chapter 17.50 ADMINISTRATIVE PERMITS

17.50.010 Introduction.

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

Administrative permits shall be permitted ~~indefinitely, unless otherwise for a duration of time, up to indefinite,~~ specified by the planning official or until the land use changes or is terminated, whichever occurs first. ~~The planning official may reclassify the application to a Conditional Use Permit as deemed necessary by the Planning Official.~~ Each administrative permit approved by the planning official is subject to review as often as city council deems appropriate and reasonable. In addition, city council may, for proper cause, revoke an ~~administrative permit-CUP.~~

(Ord. No. 2016-6, § 1, 7-5-16)

17.50.020 Submittal requirements.

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

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

(Ord. No. 2016-6, § 1, 7-5-16)

17.50.030 Procedures for review and action on administrative permit applications.

- A. Administrative permit applications, with all supporting documents and fees, shall be submitted to the planning official to review for compliance with the requirements of this title.
- B. ~~After a~~An application is determined to be complete by the planning official, ~~it will be forwarded to the commission chair for second review. If the commission chair finds the application incomplete, it will be returned to the planning official for appropriate action. If the commission chair finds the application complete and adequate, it will authorize the planning official to move forward with issuing an administrative permit.~~shall be reviewed for compliance with the criteria for approval stated below.
- C. ~~The applicant shall provide the city with the names and addresses of all adjacent property owners, as shown in the records of the Lake County assessor's office, and shall provide the planning official with a certificate of mailing.~~
- D. ~~The applicant shall notify all adjacent property neighbors within a twenty (20) foot radius of the chicken administrative permit request by sending the City of Leadville Notice of Consent Form by certified mail.~~
- E. A letter typed or printed on city stationary and signed by the planning official shall be considered to be a formal permit authorizing an administrative permit under this chapter.

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- F. An administrative permit will be revoked if the use has not been established within two years of the approval.

(Ord. No. 2016-6, § 1, 7-5-16)

17.50.040 Criteria for ~~action-approval of~~ an administrative permit application.

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

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

(Ord. No. 2016-6, § 1, 7-5-16)

17.50.050 Review and revocation of an administrative permit.

At such intervals as the planning official ~~and the planning and zoning chair~~ may have specified in its initial decision, or when there is an alleged violation of the provisions of an administrative permit, the planning official shall review the terms, conditions or other provisions of the issued administrative permit. If the Planning Official determines that a violation exists, the Planning Official shall provide written notice of the violation to the property owner. Such notice shall ~~Upon review of the permit provisions, the planning official may~~ specify time period(s) in which any violations ~~of the terms or conditions~~ shall be corrected.

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

~~The planning official shall forward all recommendations, the reasons for such recommendations, and specific time period(s) in which violations of the provisions of the permit, if any, must be corrected to planning and zoning chair and the permit holder within five days of the review. In the event the planning official recommends revocation of~~

~~any administrative permit, or if the violations of the terms or conditions are not corrected within the time period(s) specified by the planning official, such recommendation, the reasons for it, or a notice of noncompliance shall be forwarded to the planning and zoning chair within five days of the review. Within thirty (30) days the planning official shall render a decision.~~

~~Following the review and recommendation to the permit holder the planning official shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the administrative permit holder.~~ Failure of the administrative permit holder to comply within the stipulated time period(s) with any of the conditions under which the permit was issued, or to comply with the original application provisions, shall be adequate reason for revocation of any administrative permit. If the violation is not corrected within the required time period, the Planning Official shall revoke the permit by providing written notice to the property owner of revocation and the effective date of revocation.

(Ord. No. 2016-6, § 1, 7-5-16)

17.50.060 Administrative permit fees.

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

(Ord. No. 2016-6, § 1, 7-5-16)

17.50.070 Appeals procedure.

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

A copy of the notice shall be deposited in the United States mail by the applicant, first class postage prepaid, postmarked at least fifteen (15) days prior to the scheduled hearing date, and to all listed owners of record of all property owners within in a two hundred (200) foot radius. This mailed notice shall also be sent to all adjacent mineral rights owners and lessees and easement holders, as shown on the records of the office of the Lake County assessor. The notice shall include a short narrative describing the relief sought and an announcement of the date, time and location of the scheduled hearing. The applicant shall submit a signed affidavit, in a city-approved form, to the city prior to the date of the hearing evidencing that the required mailing was performed in accordance with this section. Failure to mail such notice shall not affect the validity of any hearing or determination by planning commission or city council, as applicable.

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

- D. All appeals shall be in writing and on such forms as shall be prescribed by city council. The appropriate filing fee shall accompany the application. Every appeal shall state what provision(s) of the zoning regulation is/are

involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant. The mayor shall call a meeting of the city council scheduled to take place within thirty (30) days of the submission of the appropriate materials, including proof of notification of a public hearing, and at the same time city council may transmit a copy of the appeal to the planning commission or other appropriate public bodies for review and comment.

- E. Appeal applications submitted to city council shall include a full and accurate legal description of the land involved.
- F. Upon reaching a decision in the manner described above, the city council shall notify the applicant(s) in writing within ten (10) working days after city council takes action on an appeal.

(Ord. No. 2016-6, § 1, 7-5-16)

Chapter 17.60 ACCESSORY USES, BUILDINGS AND USESSTRUCTURES

Sections:

17.60.010 Introduction.

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

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

(Ord. No. 2016-8, § 3, 11-1-16)

17.60.020 Accessory Dwelling Unit (ADU) Requirements~~R-1, R-2, TR and TC zoning districts.~~

Unless otherwise stated, the following requirements shall apply to all zoning districts.

A. ~~Garages for the storage and owner maintenance of automobiles light trucks and recreational vehicles.~~

~~B. Accessory buildings, structures or uses normally required in addition to or in conjunction with any use by right or approved conditional use in the district, including but not limited to accessory dwelling units in the R-1, R-2, TR, and TC zoning districts as a use by right but only with a conditional use permit in the C zoning district. Accessory dwelling units are prohibited in the RC zoning district.~~

- ~~CA.~~ Detached ~~accessory dwelling units~~ADUs shall be placed on an approved foundation in compliance with applicable adopted building codes and regulations.
- ~~DB.~~ ~~Accessory dwelling units~~ADUs shall be no larger than fifty (50) percent of the size of the principal building and no smaller than one hundred (100) square feet.
- ~~EC.~~ ~~Design Standards. An~~ In all zoning districts except the C zoning district, ADUs, either integrated or detached, shall be consistent in design and appearance with the primary structure. Specifically, the roof pitch, siding materials, color and window treatment of the ADU shall be complementary with the primary structure. In the C zoning district, any exterior treatments of an ADU shall complement the principal building.
- ~~FD.~~ Each ~~accessory dwelling unit~~ADU shall have a bathroom with a sink, toilet, and shower or bath at a minimum.
- ~~GE.~~ Each ~~accessory dwelling unit~~ADU shall have a kitchen with an oven, stove (two-burner minimum), refrigerator and sink at a minimum.
- ~~HF.~~ Each ~~accessory dwelling unit~~ADU shall have a maximum of two bedrooms.
- ~~IG.~~ The owners of property upon which an ~~accessory dwelling unit~~ADU is located shall have an obligation to notify the applicable water and sanitation district of the existence and occupation of the accessory dwelling unit and shall comply at all times with the regulations of such water and sanitation district.

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- ~~H.~~ Each accessory dwelling unit must pass the inspection of the building official, ~~and~~ any subsequent structural standards which may be adopted by the City of Leadville.
 - ~~K.~~ Setbacks and heights of buildings that contain detached ADUs must adhere to applicable zoning regulations of the zoning district.
 - ~~J.~~ For the purposes of allowed density, each ADU shall be counted as one (1) unit of density.
 - ~~K.~~ A maximum of one (1) ADU shall be permitted per primary building.

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

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

~~17.60.030 C zoning districts.~~

- ~~A.~~ ~~Garages as allowed in other districts.~~
- ~~B.~~ ~~Any accessory buildings, structures or uses required in addition to and in conjunction with any use by right or approved conditional use, including, but not limited to accessory dwelling units necessary to the maintenance or protection of a facility in the TC zoning district as a use by right but only with a conditional use permit in the C zoning district.~~
- ~~C.~~ ~~Solar energy devices shall maintain the same setbacks as are required for principal buildings, shall not be located within the front yard, and, if freestanding, shall not exceed ten (10) feet in height.~~
- ~~D.~~ ~~Detached accessory dwelling units shall be placed on an approved foundation in compliance with applicable adopted building codes and regulations.~~
- ~~E.~~ ~~Accessory dwelling units shall be no larger than fifty (50) percent of the size of the principal building and no smaller than one hundred (100) square feet.~~
- ~~F.~~ ~~Any exterior treatments of an accessory dwelling unit shall complement the principal building.~~
- ~~G.~~ ~~Each accessory dwelling unit shall have a bathroom with a sink, toilet, and shower or bath at a minimum.~~
- ~~H.~~ ~~Each accessory dwelling unit shall have a kitchen with an oven, stove (two-burner minimum), refrigerator and sink at a minimum.~~
- ~~I.~~ ~~Each accessory dwelling unit shall have a maximum of two bedrooms.~~
- ~~J.~~ ~~The owners of property upon which an accessory dwelling unit is located shall have an obligation to notify the applicable water and sanitation district of the existence and occupation of the accessory dwelling unit and shall comply at all times with the regulations of such water and sanitation district.~~
- ~~K.~~ ~~Each accessory dwelling unit must pass the inspection of the building official, or any subsequent structural standards which may be adopted by the City of Leadville.~~
- ~~L.~~ ~~Setbacks and heights of buildings that contain detached ADUs must adhere to applicable zoning regulations of the zoning district.~~

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

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

17.60.0430 Requirements for other accessory uses, buildings, and structures.

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

~~Fences which are not over six feet in height, and living fences of any height so long as they are not a traffic obstruction shall be considered permitted accessory uses in all districts. Taller fences are permitted accessory use upon inspection by the building official, who shall issue a permit for such fences upon determination that they would Fences exceeding six (6) feet in height shall not block light, sun, air, vision, or otherwise pose a health or safety hazard or a nuisance to adjacent properties.~~

~~No fence, shrubs, trees, sign or any other obstruction shall be permitted in any setback area if it obstructs the sight of drivers at any intersection. Cut firewood stacked in rows ~~shall not be defined as a fence for the purposes of this chapter and shall not be so regulated so long as it does not~~ obstruct the sight of drivers at an intersection.~~

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

~~Any accessory dwelling structure, integrated or detached, intended for habitation shall require a building permit. Solar energy devices systems shall maintain the same setbacks as are required for principal buildings, shall not be located within the front yard, and, if freestanding, shall not exceed ten (10) feet in height.~~

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

(Ord. No. 2016-8, § 3, 11-1-16)

17.60.0570 Rentals in all zone districts.

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

(Ord. No. 2020-6, § 4, 2-2-21)

Chapter 5.12 SHORT-TERM RENTALS

Sections:

5.12.010 Purpose.

The purpose of this chapter is to safeguard the public health, safety and welfare by establishing regulations to control the licensing, use, occupancy, and maintenance of short-term rental units in the city.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.020 Applicability and interpretation.

This chapter applies to short-term rental units only, as that term is hereinafter defined, within any zone district where such use is permitted. This chapter does not apply to hotels, motels, lodges, bed-and-breakfast establishments, or long-term rental units, as those terms are defined in Chapter 17.08 of this code. This chapter does not supersede any private covenants or restrictions prohibiting short-term rental units. This chapter shall not regulate a short-term rental unit during periods when the property is not being used as a short-term rental unit and is instead being used solely for personal use by the owner of such property. This chapter shall not be construed to prohibit the leasing of properties within the city for more than thirty (30) days.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.030 Definitions.

"Accessory dwelling unit" has the same meaning as set forth in Chapter 17.08 of this code.

"Dwelling unit" has the same meaning as set forth in Chapter 17.08 of this code.

"Guest unit" has the same meaning as set forth in Chapter 17.08 of this code.

"Local agent" means a management company or individual who is identified by an applicant as the responsible agent in the application for a short-term rental license and who is available twenty-four (24) hours per day, seven days per week to respond as the initial point of contact for the short-term rental unit and who is able to respond to emergencies at the short-term rental unit within one hour of the agent's receipt of notice of the emergency. The local agent may be the owner of the short-term rental unit and must have access to the short-term rental unit, authority to assume management of the short-term rental unit, and the ability to take remedial measures as necessary.

"Owner" means the owner of a property within the city who intends to lease or leases the property or a portion thereof as a short-term rental unit.

"Owner-occupied" means a property on which an owner uses a dwelling unit of any kind, or portion thereof, as the owner's legal, primary residence.

"Parcel" means an area of land which is capable of being described with such specificity that its location and boundaries may be established and which has been or may be developed as a single unit of land.

"Renter" shall mean the party to a lease that has obtained the temporary right to use and occupy a short-term rental unit.

"Short-term rental" unit means a dwelling unit, including an accessory dwelling unit, or a guest unit within a dwelling unit or accessory dwelling unit that is available for lease for a term of less than thirty (30) consecutive days. The term "short-term rental unit" shall not apply to hotels, motels, lodges, bed-and-breakfast establishments, hostels, or time share estates, or any guest units within such establishments. has the same meaning as set forth in Chapter 17.08 of this code.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.040 License required.

It is unlawful to lease, advertise for lease, or permit the leasing of any short-term rental unit within the city without a valid license issued by the city pursuant to this chapter. No person who has obtained a license pursuant to this chapter shall be required to obtain a general business license pursuant to Chapter 5.04 of this code for the same business activity.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.050 Classes of licenses.

An owner must obtain a license for each short-term rental unit within the city. There shall be two separate classes of licenses available for owners to operate short-term rental units within the city:

- A. Class 1: A Class 1 License is required to operate any dwelling unit, including an accessory dwelling unit, or portion thereof as a short-term rental unit on an owner-occupied property within the city.
- B. Class 2: A Class 2 License is required to operate any dwelling unit, including an accessory dwelling unit, or portion thereof as a short-term rental unit on a property within the city that is not owner-occupied.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.060 Application requirements.

- A. Contents of Application. A complete application for a short-term rental license must be submitted to the city. The application shall be in writing on forms provided and approved by the city. The following documents and information must be included with the application for the application to be considered complete:
 - 1. The name, address and other contact information of the owner of the short-term rental unit;
 - 2. The address of the proposed short-term rental unit;
 - 3. A description of the property and dwelling unit or portion thereof that will be available for lease;
 - 4. The name, address, and contact information of the local agent for the proposed short-term rental unit;
 - 5. A site plan that identifies the location of the trash receptacles and available parking for the proposed short-term rental unit;
 - 6. An acknowledgement, signed by the owner and local agent, that the owner and local agent have read and understand all regulations pertaining to the operation of short-term rental units within the city and that, following issuance of a license, the city may contact the owner if the city deems it necessary or appropriate even if there is a separate local agent for the short-term rental unit;

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7. Proof of ownership of the proposed short-term rental unit;
 8. For owners that are business entities, proof of authorization signed by all applicable members of the business entity showing the applicant may submit a short-term rental license application on behalf of the business entity;
 9. A copy of a current and valid state sales tax license issued to the owner or local agent for the proposed short-term rental unit;
 10. A copy of a current and valid Lake County sales and lodging tax license issued to the owner or local agent for the proposed short-term rental unit;
 11. Proof that all property tax payments for the property on which the proposed short-term rental unit is located are current;
 12. An affidavit, on forms provided and approved by the city, signed by the owner attesting that the short-term rental unit has appropriate safety features;
 13. Proof of insurance covering the proposed short-term rental unit sufficient to operate a short-term rental unit;
 14. A copy of ~~a conditional~~ an administrative use permit issued by the city, if required under Section 5.12.070 of this chapter or Title 17 of this code;
 15. The applicable fee(s) as set forth in the city's fee schedule; and
 16. Such other information determined necessary or desirable by the city to evaluate the compliance of the application, licensed premises or proposed short-term rental activity with the requirements of this code, including but not limited to proof of primary residence acceptable to the city for Class 1 license applications.
- B. License Fee. All fees and fines set forth in this chapter shall be set by the city council by resolution and shall be included in the city's fee schedule.
- C. Parking. Each site plan must show the parking available for the short-term rental unit, which may be on-street parking, off-street parking, or a combination of both, for the purpose of indicating to renters where parking is available during their stay. The requirement to include available parking in the site plan does not obligate the owner to provide off-street parking for renters.
- D. Application Meeting. The city may require a meeting with the applicant prior to approval or denial of the license to address any issues or questions regarding the application and assist the applicant in resolving any application deficiencies.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.070 Application approval.

- A. Approval Criteria. Short-term rental license applications shall be reviewed and approved administratively by the city designee. The city designee is the city staff person designated by city council to review applications and administer short-term rental licenses. The city designee shall not approve an application for a short-term rental license or issue a short-term rental license unless:
1. The applicant has submitted a complete application, including the payment of all applicable fees, as set forth in Section 5.12.060 of this chapter;
 2. The proposed short-term rental unit is within a zone district that allows short-term rental units;

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3. The site plan and other information provided with the application show that the property is in compliance with all applicable city ordinances and all applicable regulations regarding safety, parking and trash collection; and
 4. The applicant has obtained an ~~an administrative conditional use~~ permit, if and as required by this code.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.080 Term of license, renewal, and show cause hearings.

- A. Term. Short-term rental licenses shall be effective from May 1 until April 30 each year. Applicants who apply for and obtain a short-term rental license any time on or after May 1 shall be responsible for paying the entire license fee. Any license issued after May 1 shall expire on the April 30 following the date of issuance regardless of the issuance date.
- B. Renewal. All short-term rental licenses must be renewed annually. All renewal applications must be submitted prior to April 30 each year on forms provided and approved by the city. For short-term rental licenses subject to the annual cap set forth in Section 5.12.090 of this code, all renewal applications meeting the requirements herein and submitted by the deadline set forth in this paragraph, with applicants who are in good standing, will be approved. Notwithstanding the foregoing, any license renewal applications received after the deadline set forth in this paragraph will be considered on a first-come, first-served basis. The city shall approve a renewal application if:
 1. The renewal form is complete and does not omit any required information;
 2. The renewal fee has been paid;
 3. The owner or local agent has submitted a new, current safety affidavit;
 4. Neither the owner, the local agent, nor the short-term rental unit is currently in violation of any applicable law, rule, or regulation, including the provisions of this code;
 5. The owner has not been cited by the city for or convicted by the Leadville Municipal Court or other court of competent jurisdiction of more than one violation related to the owner's short-term rental unit in the last twelve (12) months; and
 6. For any licenses subject to the annual license cap set forth in this chapter, the short-term rental unit was rented for at least fourteen (14) days during the previous license term. If the short-term rental unit was not rented for at least fourteen (14) days during the previous term, the renewal application shall not be approved. Notwithstanding the foregoing, an owner or local agent may complete an affidavit of non-use declaring the reasons for failing to rent the short-term rental unit as required in this paragraph. If a renewal application including such affidavit meets all other requirements of this code, then the city will approve the renewal application. Affidavits of non-use will not be allowed for subsequent renewal applications.
- C. Show Cause Hearings.
 1. At any time during the term of a license, if the city's records show that a licensee has had at least three complaints, with each complaint related to a separate incident, concerning the operation or maintenance of the short-term rental unit brought to the attention of the city during the current license term, which complaints would each constitute a violation of this code and have been substantiated or verified by the city, the city may notify the licensee in writing of the date and time established for a show cause hearing before the city council. At the show cause hearing, the licensee shall be required to show cause why its license should not be suspended or revoked. Notice of such hearing shall contain a brief description of the grounds for conducting the hearing, which shall include

the list of code violations charged. The hearing shall be held no sooner than ten (10) business days after notice has been delivered to the licensee.

2. At the hearing, the city shall present matters into evidence, and the licensee shall have an opportunity to present evidence on the licensee's behalf and to comment upon the evidence. The city shall furnish the licensee its decision in writing within thirty (30) days following the hearing. In the event of suspension or revocation of the license, no portion of any licensing fees paid shall be refunded.
3. In all cases where the evidence presented at a show cause hearing demonstrates that a violation of this code occurred, the city shall consider evidence and statements in mitigation and in aggravation of the violation prior to determining the appropriate penalty. Such evidence and statements may relate to and include, but shall not be limited to, the following factors:
 - a. Seriousness of the violation;
 - b. Corrective action taken by the licensee after the violation;
 - c. Prior violations at the short-term rental unit by the owner, local agent or renters and the effectiveness of prior corrective action;
 - d. Whether the violation is part of a repeated course of conduct or is an isolated occurrence;
 - e. Likelihood of recurrence;
 - f. All circumstances surrounding the violation;
 - g. Willfulness of the violation;
 - h. Length of time the license has been held by the licensee;
 - i. Previous sanctions imposed against the licensee; and
 - j. Other factors making the situation with respect to the licensee or the licensed premises unique.
4. The licensee shall be permitted to give evidence and statements in defense, explanation and mitigation at the show cause hearing if then prepared to do so. If such evidence is not available at the show cause hearing but can be obtained by the licensee, the licensee shall state the substance of such evidence and, upon the licensee's request, the hearing may be continued for not more than ten (10) business days to a date certain.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.090 Limitations and requirements.

- A. **Local Agent.** The local agent for a short-term rental unit shall have access to and authority to assume management of the short-term rental unit and take remedial measures as necessary. The local agent shall be available to respond to tenant or neighbor concerns regarding the property twenty-four (24) hours a day, seven days a week. Local agents must respond to complaints, regardless of the source of the complaint, involving the short-term rental unit within twenty-four (24) hours.
- B. **Renter Information Notice.** Each short-term rental unit shall have a sign displayed in a conspicuous place within the short-term rental unit that contains the following information:
 1. Name and contact information of the local agent;
 2. The short-term rental license number;
 3. The physical address of the short-term rental unit;
 4. The occupancy limit for the short-term rental unit;

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5. The available parking for the short-term rental unit;
 6. A statement that all vehicles must be parked in the indicated available parking spaces unless such spaces are unavailable;
 7. Contact information for police, fire and ambulance service in case of an emergency; and
 8. The location of all fire extinguishers, fire escape routes, and contact information for renters to report safety concerns.
- C. Occupancy Limits. The occupancy limit for each short-term rental unit shall be two persons per bedroom available for lease within the short-term rental unit and two additional persons. By way of example and not limitation, a short-term rental that has three bedrooms available for lease has an occupancy limit of six persons plus two additional persons for a total occupancy limit of eight persons.
- D. Parking.
1. Good Neighbor Parking Information. Upon license issuance, the city will provide to the owner "good neighbor" parking information that outlines, among other things, information on parking limitations and best practices for parking recreational vehicles, trailers, and other similar vehicles. The owner shall post this information in the short-term rental unit in a conspicuous place and, if possible, shall provide this information to renters prior to their arrival at the short-term rental unit.
 2. Parking Notice in Advertising. The owner shall include in all official listings of a short-term rental unit a reference to the available parking for the short-term rental unit and the location of any designated parking area or spaces.
 3. Limitations. Parking is prohibited in any landscaped area, in any manner that blocks ingress or egress for adjacent properties, or in any manner that blocks access to mailboxes of adjacent properties.
- E. Trash Receptacles. Each short-term rental unit shall provide trash receptacles to accommodate all garbage generated by renters. Owners shall be responsible for ensuring that all garbage is placed in covered, secured trash receptacles within twenty-four (24) hours of the end of a rental period and shall ensure that all trash is removed from the short-term rental unit within seven calendar days of the end of any rental period.
- F. Safety Features. All short-term rental units must have an appropriate number of functional smoke detectors, carbon monoxide detectors, and fire extinguishers and must have adequate egress and other required safety features pursuant to applicable fire or building codes, as determined by the city's fire marshal and set forth in the city's short-term rental safety checklist.
- G. Change in Information. An owner shall notify the city of any change in ownership of the property, a change in the owner's address or contact information, or any change in local agent or local agent name or contact information within five days of such change.
- H. Taxes. Owners shall be responsible for making timely property tax payments for all short-term rental units, as applicable for each property. Owners shall also be responsible for keeping all applicable sales and lodging tax licenses current.
- I. Notices. Any notices or communications required or reasonably implied by this chapter may be sent to the owner and local agent by the city via U.S. mail or via electronic mail.
- J. Safety Checks. An owner or local agent of a short-term rental unit shall allow the city access to a licensed short-term rental unit once per year for the purpose of verifying the information set forth in the safety features affidavit submitted with the owner's license application or renewal application. An owner or local agent shall also allow the city access to a short-term rental unit to investigate a safety complaint about the short-term rental unit. Each safety check shall be subject to a fee set forth in the city's fee schedule. Following a safety check, the city may provide the owner or local agent instructions on how to bring the property into compliance with this code and a deadline for such compliance. If the city determines that the

owner or local agent has not complied with the instructions by the compliance deadline, the owner may be subject to the suspension or revocation or denial of a renewal application, as appropriate and in accordance with this code, of the owner's short-term rental license.

K. Maximum Number of Licenses Per Year. There shall be a maximum number of certain licenses available per year (from May 1 through April 30), which shall equal twelve (12) percent of the total number of residential parcels within the city. The total number of residential parcels shall be as determined by the city using information from the Lake County Assessor. The following types of licenses shall be subject to the cap set forth in this paragraph:

1. All Class 2 licenses, and
2. Class 1 licenses for parcels with two or more short-term rental units on a single parcel.

Class 1 licenses for parcels with only one short-term rental unit are not subject to the cap set forth in this paragraph. Licenses issued for owner-occupied parcels with two or more short-term rental units on a single parcel shall count as one license toward the license cap set forth in this paragraph. Notwithstanding the foregoing, owners or local agents must obtain a license for each proposed short-term rental unit in accordance with Section 5.12.050 of this chapter.

L. Maximum Number of Licenses Per Parcel.

1. The city shall issue no more than one license per parcel, subject to the provisions of this chapter.
2. Parcels may be eligible for more than one license on a case-by-case basis if the additional licenses are approved through the ~~conditional-use permit~~ permitting process set forth in Chapter ~~17.52~~ 17.50 of this code prior to issuance of a license in accordance with this chapter. Applicants seeking two or more licenses for a single owner-occupied parcel and applicants seeking three or more licenses for a single parcel that is not owner-occupied must obtain ~~a conditional-use~~ an administrative permit from the city before the city will process any such short-term rental license application.
3. The operation of two short-term rental units on a single parcel that is not owner-occupied is prohibited. In accordance with the requirements of this chapter, the city permits the operation and licensure of one short-term rental unit on a parcel that is not owner-occupied or may permit, following the issuance of ~~a conditional-use~~ an administrative permit as set forth in this section, the operation and licensure of three or more short-term rental units on a single parcel that is not owner-occupied. The operation of two or more short-term rental units on a single parcel that is owner-occupied is permitted.

M. Large Gatherings. Short-term rental units shall not be used to host large gatherings, which shall mean a gathering of people that exceeds the maximum occupancy limits set forth in this chapter.

N. Nuisances. All owners, local agents, and renters are prohibited from creating, operating, maintaining or conducting any nuisance as defined in Title 8 or in other sections of this code.

O. Eligibility. Only dwelling units and accessory dwelling units, or guest units within a dwelling unit or accessory dwelling unit, may be eligible for a short-term rental license. No vehicle shall be eligible for a short-term rental license.

P. Signs. Signs installed on a property related to the operation or management of a short-term rental unit must comply with the requirements of the Leadville Sign Code set forth in Chapter 17.80 of this code.

Q. License Non-Transferable. No license granted pursuant to this chapter shall be transferable from one person to another or from one location to another. An owner that is a business entity with a short-term rental license whose membership or ownership changes must notify the city of such change and apply for a new license within thirty (30) days of such change.

R. Limited Application of Certain Regulations to Condominium Units. Notwithstanding any provision to the contrary set forth in this chapter, the following regulations apply to condominium units:

1. Each condominium unit is eligible for one short-term rental license and is required to obtain an administrative permit for such use in accordance with title 17 of this code.
2. Subsection 5.12.090(L) of this chapter does not apply to parcels containing condominium unit developments, ~~and applicants seeking a short-term rental license for a condominium unit shall not be required to obtain a conditional use permit if other condominium units on the same parcel have obtained short-term rental licenses.~~
3. All condominium units licensed as short-term rental units that are not owner-occupied are subject to the maximum number of licenses available per year set forth in subsection 5.12.090(K).
4. Condominium units are subject to all other provisions of this code, as applicable.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.100 Denial of application.

The city designee shall deny a short-term rental license application or renewal application for any one or more of the following reasons:

- A. The applicable provisions of the Leadville Municipal Code have not been met;
- B. The required application fees have not been paid;
- C. The application is incomplete or contains false, misleading or fraudulent statements;
- D. The owner, local agent or other agent of the owner is currently in violation of this code or has failed to comply with any applicable requirement of this code; or
- E. For renewal applications only, the owner or local agent has been found guilty of more than one code violation regarding the short-term rental unit within the twelve (12) months preceding the renewal application.

Upon determining that an application must be denied, the city designee shall send a notice of denial to the address provided by the owner. Such notice of denial shall state the reasons for denial and inform the owner of his or her right to appeal the decision.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.110 Suspension or revocation of license.

- A. Suspension. The city designee may suspend a short-term rental license upon a determination that an owner or local agent has:
 1. Been found guilty by the Leadville Municipal Court of violating any provision of this chapter on more than one occasion during the term of the current license; or
 2. Operated a short-term rental unit during the term of the current license in violation of a building, fire, health or safety code adopted by the city, which finding of violation shall be determined by an investigation by the department, division or agency charged with enforcing said code, and has failed to timely cure such violation after receipt of and in accordance with a notice of violation issued by the city.

Upon making a determination that one or more of the above reasons for suspension has occurred, the city designee may suspend a short-term rental license for a period not to exceed one year. The city designee shall send the owner a notice of suspension. Such notice of suspension shall state the reasons for suspension, the dates during which the suspension will be effective, and inform the owner of his or her right to appeal the decision. The suspension shall remain in effect until and including the last day in the notice of suspension or until such time as the violation at issue has been corrected, whichever is later. No license shall be suspended past the license expiration date. Any owners whose licenses have been suspended until the expiration of the license must apply for renewal of the license per the renewal provisions of this chapter.

- B. Revocation. The city designee shall revoke a short-term rental license upon determining that:
1. A short-term rental license has been suspended more than once during the preceding twelve (12) months;
 2. An owner or local agent gave the city false, misleading or fraudulent information in the materials submitted during the application process;
 3. An owner or local agent knowingly operated a short-term rental unit during a time when the short-term rental license was suspended; or
 4. Any fact or condition exists that, if it had existed or had been known to exist at the time of the application for the license or renewal of the license, would have warranted the denial of the license application.

When the city designee revokes a short-term rental license, the revocation shall continue for one year from the date of revocation, the owner shall not be issued a short-term rental license during the time such revocation is effective, and must submit a new license application after the revocation expires. The city designee shall send the owner a notice of revocation. Such notice of revocation shall state the reasons for revocation, the time period during which the revocation is effective, and inform the owner of his or her right to appeal the decision.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.120 Appeal of denial, suspension or revocation.

- A. Appeal. An owner may appeal a denial of his or her application or suspension or revocation of his or her short-term rental license to the city council and shall be entitled to a public hearing before the city council. An appeal must be made in writing, stating the grounds for appeal, and delivered to the city within five business days of the date of the notice of denial, suspension or revocation by the city designee. In the event of an appeal of a suspension or revocation decision, the owner may continue to operate the short-term rental unit during the hearing process unless the continued operation of the short-term rental unit pending resolution of the appeal will endanger the public health, safety or welfare, as determined by the city.
- B. Hearing. A public hearing on the appeal shall be held within thirty (30) days of the date the appeal was submitted to the city. At the hearing, the city council shall hear such statements and consider such evidence as is offered that is relevant to the reasons alleged for denial, suspension or revocation. The city council shall make findings of fact from the statements and evidence offered at the hearing as to whether such reasons exist. The city council shall issue a written order either affirming or overturning the denial, suspension or revocation and stating the findings on which the council's decision is based. A copy of the order shall be sent to the owner within thirty (30) days of the date of the hearing.
- C. No Refund. In the event of suspension or revocation of a short-term rental license, no portion of the short-term rental license fee shall be refunded.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

5.12.130 Violation, penalty and enforcement.

- A. It is unlawful for any owner, local agent, other agent of the owner or renter to violate any provision of this chapter.
- B. In addition to the suspension and revocation actions set forth in this chapter, violations of this chapter are subject to the penalties set forth in Chapter 1.20 of this code.
- C. Any violation of this chapter shall constitute a nuisance under Chapter 8.08 of this code and may be subject to the abatement procedures set forth in Chapter 8.08.
- D. This Section 5.12.130 shall not be construed to prohibit the city from taking any action permitted by law or in equity to remedy a violation of this chapter, including but not limited to seeking an injunction in any court of competent jurisdiction.

(Ord. No. 2019-1, § 1, 4-2-19; Ord. No. 2020-6, § 2, 2-2-21)

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 2
SERIES OF 2023**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTERS
5.12, 17.08, 17.48, 17.50, AND 17.60 OF THE LEADVILLE MUNICIPAL
CODE CONCERNING UPDATES TO THE TABLE OF USES AND LAND
USE DEFINITIONS**

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

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

WHEREAS, the City desires to reorganize, streamline, and update its table of uses, land use definitions, related provisions of the City’s Zoning Ordinance, codified as Title 17 of the Leadville Municipal Code (“LMC”), concerning administrative permits, accessory uses, and related provisions concerning approval of certain short-term rental unit licenses; and

WHEREAS, making such updates requires repealing and replacing Chapter 17.08 and Section 17.48.010 of the LMC, and amending Sections 17.48.020, 17.48.030, 17.50.010 through 17.50.050, 5.12.030, 5.12.060, 5.12.070, 5.12.090, and Chapter 17.60 of the LMC; and

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

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

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

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

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

Section 2. Amendments to Chapter 5.12 of the Leadville Municipal Code. Chapter 5.12 of the Leadville Municipal Code, titled Short-Term Rentals, is hereby amended as follows in

the sections shown below, with ~~strikethrough text~~ showing deletions and **bold, underlined text** showing additions:

5.12.030 – Definitions.

[...]

"Short-term rental" unit" **means a dwelling unit, including an accessory dwelling unit, or a guest unit within a dwelling unit or accessory dwelling unit that is available for lease for a term of less than thirty (30) consecutive days. The term "short-term rental unit" shall not apply to hotels, motels, lodges, bed-and-breakfast establishments, hostels, or time share estates, or any guest units within such establishments.** ~~has the same meaning as set forth in Chapter 17.08 of this code.~~

5.12.060 – Application requirements.

A. Contents of Application. A complete application for a short-term rental license must be submitted to the city. The application shall be in writing on forms provided and approved by the city. The following documents and information must be included with the application for the application to be considered complete:

[...]

14. A copy of a ~~conditional use~~ **an administrative** permit issued by the city, if required under Section 5.12.070 of this chapter or Title 17 of this code;

[...]

5.12.070 – Application approval.

A. Approval Criteria. Short-term rental license applications shall be reviewed and approved administratively by the city designee. The city designee is the city staff person designated by city council to review applications and administer short-term rental licenses. The city designee shall not approve an application for a short-term rental license or issue a short-term rental license unless:

[...]

4. The applicant has obtained **an administrative** ~~a conditional use~~ permit, if and as required by this code.

5.12.090 – Limitations and requirements.

[...]

L. Maximum Number of Licenses Per Parcel.

1. The city shall issue no more than one license per parcel, subject to the provisions of this chapter.
2. Parcels may be eligible for more than one license on a case-by-case basis if the additional licenses are approved through the ~~conditional use permit~~ **permitting** process set forth in Chapter ~~17.52~~**17.50** of this code prior to issuance of a license in accordance with this chapter. Applicants seeking two or more licenses for a single owner-occupied parcel and applicants seeking three or more licenses for a single parcel that is not owner-occupied must obtain a ~~conditional use~~ **an administrative** permit from the city before the city will process any such short-term rental license application.
3. The operation of two short-term rental units on a single parcel that is not owner-occupied is prohibited. In accordance with the requirements of this chapter, the city permits the operation and licensure of one short-term rental unit on a parcel that is not owner-occupied or may permit, following the issuance of a ~~conditional use~~ **an administrative** permit as set forth in this section, the operation and licensure of three or more short-term rental units on a single parcel that is not owner-occupied. The operation of two or more short-term rental units on a single parcel that is owner-occupied is permitted.

Section 3. Repeal and Replace Chapter 17.08 of the Leadville Municipal Code.

Chapter 17.08 of the Leadville Municipal Code is hereby repealed and replaced to read in full as follows:

17.08.010 - Introduction.

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

17.08.020 Use Categories.

This section defines the general use categories listed in Table 1, By-Right, Conditional, and Prohibited Uses by Zoning District within Chapter 17.48. Definitions for specific use types are in alphabetical order in Section 17.08.030.

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

“Agricultural Uses” means uses related to the commercial production of field crops for food, fiber, or energy. Agricultural uses commonly include farming, orchards, horticulture, dairying, pasturage, and aquaculture. Agricultural uses also include the raising or breeding of livestock such as cattle, horses, poultry, and the keeping of bees. The term includes the necessary accessory uses for storing the products and inputs needed to produce them..

“Animal Services” means animal-related uses including the boarding and care of animals on a commercial basis. Accessory uses commonly include confinement facilities for animals, parking, and storage areas.

"Child Care Facilities" means any and all facilities or other activities allowed under the Child Care Licensing Act (Article 5, Part 3 of Title 26.5, C.R.S., as amended), and further regulated under the Colorado Department of Human Services' General Rules for Child Care Facilities, 12 C.C.R. 2509-8, Section 7.701 et seq., as amended. “Community and Cultural Facilities” means uses including buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public.

“Educational Facilities” means public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses commonly include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

“Food and Beverage” means establishments involved in serving prepared food or beverages for consumption on or off the premises. Accessory uses commonly include food preparation areas, offices, and parking.

“Group Living” means uses characterized by residential occupancy of a structure by a group of people who do not meet the definition of “household living.” Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Group living structures commonly have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

“Healthcare Facilities” means any facility providing direct health care to the public such as hospitals, mental health institutions, sanitariums, special care centers, and clinics.

“Household Living” means uses characterized by residential occupancy of a dwelling unit as a household. The tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of fewer than 30 days is classified under the “lodging facilities” category). Accessory uses commonly include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, home occupations, and parking of the occupants’ vehicles.

“Industrial Service and Research” means uses including the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Contractors and similar users may perform services off-site with few customers coming to the site. Accessory activities commonly include offices, parking, and indoor or outdoor storage.

“Lodging Facilities” means for-profit facilities where lodging is provided to transient visitors and guests for a defined period of time and where meals and the like may be provided.

“Manufacturing and Production” means uses including all transformative processes, regardless of whether or not the new product is finished or semi-finished. Production is commonly for commercial wholesaling rather than for direct sales.

“Marijuana Industries” means any and all industries, uses, facilities, licenses, or other activities allowed under the Colorado Marijuana Code (Article 10 of Title 44, C.R.S., as amended), and further regulated under the Colorado Department of Revenue, Marijuana Enforcement Division’s Colorado Marijuana Rules, 1 C.C.R. 212-3, as amended.

“Offices” means uses that provide executive, management, administrative, or professional services, but do not involve the sale of merchandise except as incidental to a principal use. Common uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. Accessory uses commonly include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

“Parking Facilities” means any parking lot or parking structure that is used primarily or habitually for the parking of vehicles (excluding street or alley rights-of-way).

“Parks and Open Space” means uses with a focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses commonly include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking.

“Personal Services” means establishments that provide individual services related to personal needs directly to customers at the site of the business, or that receive goods from or return goods to the customer, which have been treated or processed at that location or another location. Examples commonly include beauty and barbershops, laundromats, shoe repair shops, and tailor shops.

“Public Utilities and Facilities” means all lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services at a local level.

“Recreation and Entertainment” means uses that provide recreation or entertainment activities. Accessory uses commonly include concessions, snack bars, parking, and maintenance facilities.

“Retail” means uses involving the sale of a product directly to the final consumer for whatever purpose but not specifically or exclusively for the purpose of resale. Examples commonly include bookstores, antique stores, bakeries, grocery stores, household product stores, and similar uses.

“Vehicles and Equipment” means a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses commonly include incidental repair, storage, and offices.

“Warehouse and Distribution” means uses that are engaged in the storage or movement of goods for themselves or other firms. Goods are commonly delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses commonly include offices, truck fleet parking, and maintenance areas.

Section 17.08.030 Definitions.

In this title, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

"Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit that is incidental and subordinate in function and size to the principal building which is located on the same parcel as the principal building.

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

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

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

"Agricultural production" means the production of a plant which will ultimately be sold at retail, and which utilizes the cultivating of soil, planting, raising, and harvesting crops.

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

"Alteration" means any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to, the erection, construction, reconstruction, or removal of any structure or substantial portion thereof. With regard to a mobile home park or travel trailer park, alteration would be any act or process that changes density, lot size, and boundaries.

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

“Animal production” means raising or fattening animals for the sale of animals or animal products. This use comprises establishments, such as ranches, farms, and feedlots primarily engaged in keeping, grazing, breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale.

“Animal shelter” means a facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, established humane society, animal welfare society (such as the Society for the Prevention of Cruelty to Animals), or other nonprofit organization devoted to the welfare protection and humane treatment of animals.

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

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

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

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

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

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

“Art gallery” means an establishment engaged in the sale, loan, or display of paintings, photography, sculpture, or other works of art and may include art classes, art studio space, and special events. Art Gallery does not include libraries, museums, or non-commercial art galleries.

“Athletic facilities” means a developed recreation area that may contain a playground as well as fields for competitive sports such as baseball, football, or soccer. Bleachers or grandstands may be provided.

“Automotive, recreational vehicles, or marine sales and service” means the use of any building or land for a business involving the sale, leasing, and/or servicing of new or used motor vehicles, boats, snowmobiles, ATVs, OHVs, UTVs, or recreational vehicles. Such establishments may include office space, parking lots for the display and storage of vehicles available for sale, parking areas for customers and employees, vehicle repair facilities, facilities for body work, painting, or restoration, and sale of parts.

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

"Bars and lounges" mean establishments whose primary activity is the sale of alcohol beverages, as that term is defined in the Colorado Liquor Code, to be consumed on the premises. Bars and lounges include taverns, night clubs, private clubs, bottle clubs, and similar facilities serving alcohol beverages.

"Bed and breakfast establishment" means a building or portion thereof with kitchen facilities for the customary service of breakfast at no additional cost to patrons and with guest units designed to be used, let, or hired for occupancy by persons on a temporary basis and containing not more than five (5) such rooms.

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

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

"Brewery" means an establishment that manufactures malt liquors, as that term is defined in the Colorado Liquor Code, on site. Accessory uses may include but are not limited to bars, restaurants, tasting rooms, or storage.

"Brewpub" means a restaurant that includes the manufacturing of malt liquors, as that term is defined in the Colorado Liquor Code, as an accessory use.

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

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

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

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

"Café." See "Restaurant."

“Campground” means an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, recreational vehicles, and/or similar movable or temporary sleeping quarters of any kind.

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

“Cemetery” means land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

“Child care center” means a facility, by whatever name known, which is maintained for the whole or part of the day for the care of five (5) or more children eighteen (18) years of age or younger and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated education purposes..

"Churches, places of worship or assembly " means any building which people regularly use to attend, participate in, or hold religious services, meetings, and other activities. This definition shall include buildings in which the religious services of any denomination are held. Accessory uses commonly include, but are not limited to, summer camps.

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

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

“Commercial cutting and storage of firewood” means the falling, chopping, cutting, splitting, or otherwise preparing timber or logs for commercial sales and/or storage of these products on the premises.

"Commercial greenhouse" means a greenhouse for agricultural production.

“Commercial use” means activity involving the sale of goods or services carried out for profit.

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

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

“Community center” means a building or portion of a building used for nonprofit, cultural, educational, recreational, religious, or social activities which is open to the public, or a designated part of the public, usually owned and operated by a public or nonprofit group or agency. Examples of community centers are learning centers, senior centers, and similar uses.

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

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

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

"Convalescent home". See Nursing Home

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

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

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

"Density" means the number of dwelling units per acre of land.

"Detoxification center". See "Substance Abuse Treatment Facility".

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

"Distillery" means an establishment where spiritous liquors, as that term is defined in the Colorado Liquor Code, are manufactured. Accessory uses may include but are not limited to tasting rooms open to the public.

"Distillery pub" means a restaurant that includes the manufacturing of spiritous liquors, as that term is defined in the Colorado Liquor Code, as an accessory use.

"Distribution facility" means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

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

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

"Dwelling, multifamily" means a dwelling, which may be a modular structure, that was designed to house or houses more than two families, as defined herein.

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

"Dwelling, single-family attached" means a dwelling, which may be a modular structure, designed for occupancy and ownership by one family that is connected by a common wall to another single-family dwelling, such as a townhome.

"Dwelling, two-family" means a dwelling, which may be a modular structure, designed for occupancy by two families, such as a duplex.

"Educational institution" means public, private, or parochial institution at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

"Electric vehicle (EV) charging station" means a motor vehicle parking lot where EVs can either recharge batteries for free or for a fee. EV charging stations may be allowed as an accessory use to any use where parking is required or provided.

"Electric vehicle (EV) charging station, private" means an EV charging station that is not open to the general public.

"Electric vehicle (EV) charging station, public" means an EV charging station that is accessible without restrictions on which drivers can utilize the station.

"Entertainment facility" means a structure, complex, or facility used for entertainment and amusement activities. Entertainment facilities, either indoor or outdoor, do not include any business defined as a sexually oriented business by this title or athletic facilities.

“Entertainment facility, indoor” means a structure, complex, or facility for the presentation of exclusively indoor amusement and entertainment, including indoor motion picture theaters, theaters for indoor live performances, studios for arts education, such as dance or painting, bowling alleys, video arcades, and shooting ranges or arcades.

“Entertainment facility, outdoor” means a structure, complex, or facility used for amusement and entertainment that is fully or partially outdoors, including concert facilities, rodeos, racing facilities, golf courses or golf driving ranges, fairgrounds, and amusement parks.

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

"FAA" means the Federal Aviation Administration.

“Fabrication”. See “Manufacture of materials”.

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

“Family child care home” means a facility for child care operated with or without compensation or educational purposes in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home. “Family child care home” may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types of family child care homes designated under the General Rules for Child Care Facilities, 12 C.C.R. 2509-8, Section 7.701 et seq., as amended. For purposes of this definition, the term “place of residence” means the place or abode where a person actually lives and provides child care.

“Farm stand” means a temporary building or structure, not to exceed a gross floor area of 500 square feet, from which agricultural products produced on the premises are sold.

“Fence” means an artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

"FCC" means the Federal Communication Commission.

"Formula business" means any restaurant, café, bar and lounge, hotel, rooming or boarding house, any retail business, automotive sales and services, and any personal services that has seven or

more other establishments in operation, or with local land use or permit entitlements already approved and effective, located anywhere in the United States. Electric vehicle charging stations shall not be considered formula businesses. In addition to the seven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: A standardized array of merchandise, standardized array of services, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized sign, a trademark, or a service mark.

1. "Standardized array of merchandise" means fifty (50) percent or more of in-stock merchandise from a single distributor bearing uniform markings.
2. "Standardized array of services" means as a common menu or set of services priced and performed in a consistent manner.
3. "Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.
4. "Service mark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.
5. "Facade" means the face or front of a building, including awnings, looking onto a street or an open space.
6. "Décor" means the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
7. "Color scheme" means a selection of colors used throughout the establishments, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
8. "Uniform apparel" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags), and standardized colors of clothing.

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

"Garage, noncommercial" means a building designed for the shelter, storage or maintenance of motor vehicles owned and operated by the owner of such building where no activity is carried out for profit.

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

"Greenhouse" means a building with a roof and sides constructed of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

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

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

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

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

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

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

"Harboring of chickens" means activities, definitions, and regulations set forth in section 6.04.020 of the Leadville Municipal Code.

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

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

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

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

"Hospice". See Nursing Home.

"Hospital" means an institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, including as related facilities, laboratories, outpatient departments, training facilities, and staff offices.

"Hostel" means an establishment providing transient, overnight accommodations, typically characterized by low cost, shared use of a self-service kitchen, common areas, guest units (either private or shared) and bathroom facilities.

"Hotel" means a building or portion thereof with guest units used or designated for use by or hired for occupancy by persons on a temporary basis and including at least 275 square feet.

"Improvements" means any utility, roadway, survey monument, building, structural or other changes to the land as may be required by or provided for in this title. "Junkyard" means a building, structure, or parcel of land or any combination thereof used for the collection, storage or sale of waste paper, rags, scrap metal, or discarded or abandoned materials and equipment or parts thereof or for the collecting, disassembly, storage or salvaging or demolition of vehicles, machinery or other materials and including the commercial sale of whole items or parts thereof, but not including architectural feature salvage.

"Kennel" means an establishment in which animals are boarded, groomed, bred, or trained for commercial gain. This does not include stables.

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

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

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

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

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

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

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

"Lumberyard" means an area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

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

"Manufactured home" means a single-family dwelling which: (1) is partially or entirely manufactured in a factory; (2) is installed on an engineered, permanent foundation; (3) has brick, wood, or cosmetically equivalent siding and a pitched roof; (4) is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended; and (5) is built for the Colorado climate and snow load according to the Department

of Housing and Urban Development Standards established under the provisions of 42 U.S.C. Section 5401, et seq.

“Manufacture of materials” means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, or resins.

“Marijuana hospitality business” means a facility, which may be mobile, licensed pursuant to the Colorado Marijuana Code to permit the consumption of marijuana in accordance with the Colorado Marijuana Code and the city's Code.

“Marijuana hospitality and sales business” means a facility, which cannot be mobile, licensed under the Colorado Marijuana Code to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of the city's Code.

“Marijuana research and development facility” means a facility licensed pursuant to and used for the purposes set forth in the Colorado Marijuana Code at C.R.S. 44-10-507.

“Mausoleum”. See Cemetery.

“Medical Clinic” means a building or group of buildings in which the primary use is the provision of health care services to patients or clients. Examples include but are not limited to medical and dental laboratories, blood banks, oxygen providers, integrative medicine and holistic or homeopathic therapies, and other miscellaneous types of medical services.

“Medical marijuana store” means a facility, licensed pursuant to C.R.S. § 44-10-501, where medical marijuana is sold to registered patients or primary caregivers as defined in section 14 of article XVIII of the Colorado constitution. This definition does not include primary caregivers.

“Medical marijuana products manufacturer” means a facility licensed pursuant to and described in the Colorado Marijuana Code at C.R.S. § 44-10-503.

“Medical marijuana cultivation facility” means a facility licensed pursuant to and used for the purposes set forth in the Colorado Marijuana Code at C.R.S. § 44-10-502.

“Medical marijuana testing facility” means a facility licensed pursuant to and used for the purposes set forth in the Colorado Marijuana Code at C.R.S. § 44-10-504.

“Medical marijuana transporter premises” means the premises permitted under C.R.S. § 44-10-505 to be maintained and operated by a person licensed pursuant to the Colorado Marijuana Code to operate a business as described in C.R.S. § 44-10-505.

“Membership clubs and lodges” means permanent, headquarters-type, and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; civic, social, and fraternal organizations; country clubs (golf courses separately defined); labor unions and similar organizations; political organizations; professional membership organizations; other membership organizations.

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

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

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

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

"Modular structure” means a structure consisting of prefabricated modules that are primarily built off-site in a factory and are assembled on-site. Modular structures may be any type of residential structure or commercial structure. Modular structures may comprise an entire structure or a portion of a structure. A modular structure is not a manufactured home or a mobile home.

"Motel”. See “Hotel”.

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

“Museum” means an establishment operated as a repository for a collection of nature, scientific, literary curiosities, or objects of interest or works of art, not including the regular sale or distribution of the objects collected. Museums may include incidental retail and food/beverage sales.

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

“Nursery” means any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

“Nursing Home” means any facility which provides meals, lodging, and nursing care for compensation.

"Nudity" or "state of nudity" means:

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

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

"Orchard" means the establishment, care, and harvesting of more than 25 fruit-bearing trees for the purpose of selling the fruit to others.

"Outdoor guiding" means a use where professional outdoor guides lead groups on outdoor activities such as hunting, fishing, skiing, camping, photography, or other outdoor recreational activities. This may include accessory retail or rental of equipment for the patrons participating in the outings. Outdoor guiding does not include outdoor recreational equipment rentals.

"Outdoor recreation equipment rental" means any use where motorized recreation equipment such as snowmobiles, off-highway vehicles, or utility vehicles are stored or displayed outdoors for rental purposes. This use may include office space and repair and maintenance of rental equipment."

"Outdoor storage" means the storage of materials, refuse, junk and/or other similar items outside of a building.

"Outdoor storage of snow" means the storage of snow outside a building.

"Outdoor storage screened" means all outdoor storage required to be screened from view from adjacent streets or the first floor of adjacent buildings.

"Outdoor storage, unscreened" means all outdoor storage not required to be screened from view from adjacent streets or the first floor of adjacent buildings.

"Outfitting". See "Outdoor guiding."

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

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

"Park" means an area or facility to be used for recreation, exercise, sports, education, rehabilitation, or similar activities, or an area intended to enhance the enjoyment of natural features or natural beauty.

"Parking area." See "Motor vehicle parking lot."

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

"Personal services" means establishments primarily engaged in providing services involving the care of a person or his/her personal goods, including but not limited to, dry cleaning, cosmetics, beauty and barbershops, funeral services, and domestic services.

"Pet store" means an establishment primarily engaged in the retail sale of household pets.

"Planned unit development" means an area of land, controlled by one or more landowners, to be developed or developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not necessarily correspond in lot size, bulk, or type of use, density, lot coverage, open space or other restriction to the provisions contained elsewhere in this chapter.

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

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

"Playground." See "Park."

"Playing field." See "Athletic facility."

"Processing." See "Manufacture of materials."

"Professional and business offices" means professional or government offices including accounting, auditing, and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; court reporting services; data processing and computer services; detective agencies and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services; photography and commercial art studios; writers and artists offices outside the home. This does not include medical offices or offices that are incidental and accessory to another business or sales activity that is the principal use.

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

"Public utility facility" means major buildings, structures, and facilities including but not limited to generating and switching stations, electrical substations, water or sewer pumping stations, and telephone exchanges, related to the furnishing (storage and transportation) of utility services, including but not limited to electric, gas, telephone, cable, water, sewer, and public transit, to the

public. Major public utility facilities located in rights-of-way or easements are not uses required to be zoned.

“Public and government facility, service, or building” means the use of a property for a public purpose by any department or branch of government. Examples include but are not limited to libraries, post offices, law enforcement, and emergency services.

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

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

“Rental shop” means an establishment that conducts business with customers under conditions and terms agreed upon in a rental agreement or contract, which may be implied, explicit, or written.

“Restaurant” means an establishment where food and drink are prepared, table service is provided, and consumption takes place primarily within the principal structure, including but not limited to cafés.

“Restaurant with drive up windows” means a restaurant accommodating the patron’s automobile from which the occupants may receive a service or in which products purchased from the restaurant may be received.

“Retail marijuana cultivation facility” has the same meaning as “marijuana cultivation facility” as defined in section 16(2)(h) of article XVIII of the Colorado constitution.

“Retail marijuana products manufacturer” has the same meaning as “marijuana product manufacturing facility” as defined in section 16(2)(j) of article XVIII of the Colorado constitution.

“Retail marijuana store” has the same meaning as defined in section 16(2)(n) of article XVIII of the Colorado constitution.

“Retail marijuana testing facility” means “marijuana testing facility” as defined in section 16(2)(l) of article XVIII of the Colorado constitution and that is licensed pursuant to the Colorado Marijuana Code.

"Retail marijuana transporter premises" means the premises permitted under C.R.S. § 44-10-605 to be maintained and operated by a person licensed by the Colorado Marijuana Code to operate a business as described in C.R.S. § 44-10-605.

“Retail sales, general” means a facility or area for the retail sale of general merchandise or food to the general public for direct use and not for wholesale. This use includes but is not limited to

sale of general merchandise, clothing and other apparel, flowers and household plants, dry goods, convenience and specialty foods, hardware, alcohol beverages, and similar consumer goods.

“Retirement home.” See “Senior living facility.”

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

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

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

“Sawmill” means an operation or facility which has, as its predominant purpose, the sawing or planning of logs or trees into rough slabs.

“Scenic railways” means a railway that, in provides opportunities for the enjoyment of natural and/or man-made scenic resources and access or direct views to areas or scenes of exceptional beauty or historic or cultural interest. The aesthetic values of scenic routes often are protected and enhanced by regulations governing the development of property or the placement of outdoor advertising.

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

“Self-storage facility” means a building or group of buildings that are rented and designed, through individual compartments or controlled stalls, for self-service storage purposes.

“Senior living facility” means a multifamily dwelling or complex containing dwelling units designed for and principally occupied by senior citizens. Such facilities commonly include a congregate meals program in a common dining area but exclude institutional care facilities such as nursing homes as elsewhere defined.

“Service station” means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, provided it is conducted within a completely enclosed building.

“Service station, gasoline” means any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories, where repair service, if any, is incidental. May include the sale of propane or kerosene as accessory uses.

"Setback" means the distance required by the provisions of this title between the face of a building and the lot line opposite that building face, measured perpendicular to the building. In computing the minimum setback requirement, the following architectural features shall not be

considered: open fire escapes projecting up to a distance of four feet from the face of a building, walls, rails or fences. Setback distances shall be measured from the edge of the eaves of the structure. Where angled buildings or lots exist or streets are curved, setbacks shall be measured from the shortest distance to the lot line.

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

1. "Adult arcade" means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons per machine at any one time, are used to regularly show films, motion pictures, video cassettes, slides or other photographic, digital, or electronic reproductions depicting specified sexual activities or specified anatomical areas.
2. "Adult bookstore, adult novelty store," or "adult video" store means a commercial establishment that devotes a significant or substantial portion of its business to any one or more of the following:
 - a. The sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - b. The sale or rental of instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specified sexual activities; or
 - c. A significant or substantial portion of its business is shown by characteristics including, but not limited to, some or all of the following:
 - i. A significant or substantial portion of its stock in trade consists of the items listed in subsections a. and/or b. above; or
 - ii. A significant or substantial portion of its revenues is derived from the rental or sale of items listed in subsections a. and/or (b) above; or
 - iii. A significant or substantial portion of its floor space, shelf space or storage space is devoted to the items listed in subsections a. and/or b. above; or
 - iv. A significant or substantial portion of its advertising is devoted to the items listed in subsections a. and/or b. above.
3. "Adult cabaret" means a nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment which regularly features live performances that are

characterized by the exhibition of specified sexual activities or the exposure of specified anatomical areas.

4. "Adult motel" means a motel, hotel or similar commercial establishment which offers public accommodations, for any form of consideration, and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical type of material by means of a sign visible from the public right-of-way, or by means of any off premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and offers a sleeping room for rent for a period of time less than five hours.
5. "Adult motion picture theater" means any commercial establishment to which the public is permitted or invited, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown for more than one hundred (100) days annually that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas. Any establishment meeting the definition of an adult arcade is not an adult motion picture theater.
6. "Nude modeling studio" means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. The provisions of this definition shall not apply to:
 - a. A college, junior college, or university supported entirely or partly by taxation; or
 - b. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - c. A business located in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.
7. "Sexual encounter center" means a business or commercial enterprise that regularly offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or semi nudity. This definition does not apply to any actions in compliance with any treatment or examination of another person for a bona fide medical purpose when such treatment or examination is conducted in a manner substantially consistent with reasonable medical practices, or to bona fide private parties not open to the general public.
8. "Specified anatomical areas" means:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the areola; or

- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
9. "Specified sexual activities" means:
- a. Human genitals in a state of sexual stimulation or arousal, or tumescence;
 - b. Masturbation, actual or simulated;
 - c. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; and
 - d. Fondling or other erotic touching of human genitals, pubic region, anus, buttocks, or female breasts.

"Short-term rental" or "short-term rental unit" shall have the same meaning as defined in Section 5.12.030.

"Solar energy system" means an energy system, including but not limited to a ground-mounted solar energy system, which converts solar energy to usable thermal, mechanical, chemical, or electrical energy to meet all or a significant part of a structure's energy requirements. Solar energy systems may be comprised of devices such as solar panels, arrays, and related equipment, pipes, batteries, and wiring.

"Special event" means an organized event or a group activity including, but not limited to a performance, live music, broadcast music, commercial entertainment, assembly, contest, exhibit, ceremony, athletic competition, reading, or other similar gatherings where anything of value is exchanged in return for attendance or entry into the event. Special events do not include wedding events.

"Stable" means an establishment designed for feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation.

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

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

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

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

land to be used for condominiums, apartments or any other multiple-dwelling units, or for time-sharing dwelling units.

“Substance abuse treatment facility” means a facility for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use or addiction.

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

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

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

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

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

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

“Temporary use” means a use established for a limited duration of time with the intent to discontinue such use upon the expiration of the time period. Such use may or may not be permitted under the regulations for a given zoning district but may be allowed on a nonpermanent and temporary basis following the procedures in Chapter 17.64, Temporary Buildings and Uses.

"Time share estate" means any interest in real property, including condominiums, owned or leased by five or more persons or other devices including ownership in a corporation, cooperative,

partnership, or joint venture whereby the owners or lessees have formally or informally agreed that such owners or lessees shall have the preferred or exclusive use during specified periods of time. Any conveyance of a fractional fee estate or undivided interest by separate deed is within this definition and is hereby regulated within this title. A time share estate shall be deemed to be created upon the marketing, promotion, selling, or offering for sale a specified period or periods of time of occupancy in one or more residential units.

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

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

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

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

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

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

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

"Travel trailer unit" means any pickup camper, a pickup with shell, motorhome, travel trailer, tent trailer, or similar mobile unit with sleeping quarters and not exceeding eight feet in body width at its widest point or forty (40) feet in body length and designed and used principally for recreational purposes or for the support of recreational or commercial uses.

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

"Use, accessory". See "Accessory use, building, or structure."

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

"Use, principal" means the main use to which the premises is devoted and the principal purpose for which the premises exists.

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

"Vacation lodge". See Hotel.

"Vacation rental". See Short-term rental.

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

"Veterinary hospital" means an establishment that provides medical treatment and care to animals and which may include temporary or overnight boarding of animals that are recuperating from treatment. Common accessory uses may include but are not limited to kennels, parking, and storage.

"Wholesale" means the sale of goods and merchandise for resale instead of for direct consumption.

"Winery" means an establishment where vinous liquors, as that term is defined in the Colorado Liquor Code, are manufactured. Accessory uses may include but are not limited to bars, restaurants, tasting rooms, or storage.

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

Section 4. Repeal and Replace of Section 17.48.010 and 17.48.020 of the Leadville Municipal Code. Section 17.48.010 of the Leadville Municipal Code, titled Designated, and Section 17.48.020, titled Uses Not Itemized, are hereby repealed and replaced to read in full as follows:

(begins on next page)

17.48.010 – Designated

The table below indicates which principal use(s) are allowed by right, which require an administrative permit, and which uses are conditional uses (that is, uses which the city may allow following detailed review). Any use not included in the table shall reviewed for compliance with 17.48.20. A blank square in the table below indicates that a use is prohibited.

TABLE 1

By-Right, Conditional and Prohibited Uses by Zoning District

R = A use allowed by Right

A = A use requiring an Administrative Permit as defined in Chapter 17.50

C = A use requiring a Conditional Permit as defined in Chapter 17.52

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
Residential Uses							
Household Living	Dwellings above or below commercial use		A	A	R	A	R
	Multifamily dwelling (3-4 units)	C	R	R		R	R
	Multifamily dwelling (5+ units)		C	C	C	C	C
	Single-family dwelling (attached and detached)	R	R	R		C	R
	Two-family dwelling	R	R	R		C	R
	Mobile home park			C			
Group Living	Group Homes		C	C		C	C
	Retirement Home, Senior living facility		R	C		C	C
Lodging Facilities	Short-Term Rentals (<i>Refer to Sec. 5.12</i>)	A	A	A	A	A	A

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
Public, Institutional, and Civic uses							
Community and Cultural Facilities	Cemeteries or mausoleums					C	
	Churches, place of worship or assembly	C	C	C	C	C	C
	Community Center	A	A	A	R	R	R
	Membership clubs and lodges		C	C	R	R	R
	Museums	C	C	C	R	R	R
Child Care Facilities	Childcare center	C	C	C	C	C	C
Educational Facilities	School and/or educational institutions	C	C	C	C	C	C
Parks and Open Space	Parks, Playgrounds, athletic facilities	R	R	R	C	R	R
Public Utilities and Facilities	Public utility facility	C	C	C	C	C	C
	Public and government, facilities, services or buildings.	C	C	C	C	C	C
	Recycle Center					C	C
	Solar energy facility			A		A	A
	Telecommunication facility	C	C	C	C	C	C
Healthcare Facilities	Hospitals, medical clinics, nursing homes, or substance abuse treatment facilities		C	C	C	R	C
Animal Services	Animal shelter	C	C	C	C	C	C
Commercial Uses							
Agricultural Uses	Agricultural production					C	C
	Agricultural production related to the commercial production of animals					C	
	Commercial cutting and storage of firewood					C	
	Commercial greenhouses <500sf	A	A	A	C	A	A
	Commercial greenhouses >500sf		C	C		C	C
	Lumber yard or sawmill					C	
	Orchards, nurseries, and/or related uses for			C		C	C

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
	commercial purposes						
	Farm stand			C	C	C	C
Food and Beverage	Bars and lounges, Brew pub, Distillery pub			C	R	R	C
	Restaurants			C	R	R	R
	Restaurant with drive up windows					C	C
Lodging Facilities	Bed and Breakfast establishments	C	C	R	C	C	R
	Hotels and hostels			C	R	R	C
	Rooming and boarding house or retirement home		C	C	C	C	R
	Time share estate	A	A	A	A	A	A
Marijuana Industries	Medical and/or retail marijuana store					C	C
	Marijuana hospitality business					C	C
	Marijuana hospitality and sales business					C	C
Offices	Professional and business offices		C	R	R	R	R
Parking Facilities	Motor vehicle parking lots		C	C	C	R	C
Personal Services	Personal services		C	C	R	R	R
Recreation and Entertainment	Entertainment facility, indoor			C	C	C	C
	Entertainment facility, outdoor	C	C	C	C	C	C
	Art Gallery			R	R	R	R
	Outdoor Guiding			R	R	R	R
	Outdoor recreation equipment rental, with outdoor storage			C	C	R	C
	Outdoor recreation equipment rental, without outdoor storage			R	R	R	R
	Stables (not permitted per Sec. 6.04.030)						
	Scenic railways	C	C	C	C	C	C
	Campgrounds and travel trailer park (See Ch. 17.56)					C	C
Retail	General retail sales >1500sf		C	C	R	R	C
	General retail sales <1500sf		C	C	R	R	R
	Architectural feature salvage					C	C
	Rental Shop		C	C	R	R	R

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
	Sexually oriented business					C	
Vehicles and Equipment	Automotive, recreational vehicles, or marine sales and service, excluding service stations				C	R	C
	EV Charging Station, Public or Private			C	C	R	R
	Motor vehicle parking lot		C	C	C	R	C
	Service Station					C	C
	Service station, gasoline					R	
Animal Services	Kennels, veterinary hospitals and pet stores					C	C
Industrial Uses							
Manufacturing and Production	Brewery, Distillery, Winery					C	
	Cottage Industry	A	A	A	A	R	R
	Manufacture of materials not otherwise listed and <i>which will cause</i> noise, heat, dust, fumes or other adverse consequences that will impact the neighborhood.			C		C	C
	Manufacture of materials not otherwise listed and <i>which will not cause</i> noise, heat, dust, fumes, excessive traffic or parking or other adverse consequences that will impact the neighborhood.			A	A	R	R
Industrial Service and Research	Repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products			C		C	C
Warehouse and Distribution	Non-commercial garages	C	C	C	C	C	C
	Outdoor storage of snow	R	R	R	A	R	R
	Screened or un-screened outdoor storage			A		C	A
	Self-storage facilities					R	C
	Wholesale and/or distribution facility with outdoor storage			C		R	C

Use Category	Use Type	Zoning Districts					
		R-1	R-2	TR	RC	C	TC
	Wholesale and/or distribution facility without outdoor storage		C	C	R	R	C
Marijuana Industries	Medical and/or retail marijuana cultivation facility					C	
	Medical and/or retail marijuana products manufacturer					C	
	Medical and/or retail marijuana testing facility					C	
	Marijuana research and development facility					C	
	Medical and/or retail marijuana transporter premises					C	
Accessory Uses							
Accessory Uses	Accessory dwelling unit (Refer to Ch. 17.60)	R	R	R		C	R
	Accessory use, building, or structure (Refer to Ch. 17.60)	R	R	R	R	R	R
	Harboring of chickens	A	A	A		A	A
	Home occupation	R	R	R	R	R	R
	Outdoor Storage	R	R	R	R	R	R
	Short-Term Rentals (Refer to Sec. 5.12 of LMC)	R	R	R	R	R	R
	Solar energy system	A	A	A	A	A	A
	Family child care home	R	R	R	R	R	R
	Garages, noncommercial	R	R	R	R	R	R
	Greenhouses	R	R	R	R	R	R
	Swimming pools and hot tubs	R	R	R	R	R	R
	Satellite dishes	R	R	R	A	R	R
	Fences up to 6 ft. in height	R	R	R	A	R	R
	Fences exceeding 6 ft. in height	A	A	A	A	A	A
	Amateur radio and television towers	R	R	R	A	R	R
	Individual storage sheds	A	A	A	A	A	A
Fallout shelters for personal uses	R	R	R	R	R	R	

17.48.020 Uses not listed.

- A. Purpose. The purpose of this section is to promote the health, safety, convenience, and welfare of the present and future inhabitants of the city by protecting and enhancing the character of the city's zoning districts and providing for efficient and fair development that respect property rights and ensure quality development.
- B. Generally. If a proposed use is not listed in section 17.48.010, then the planning official shall decide whether the proposed use is either functionally comparable to, or a subcategory of, a by-right, conditional, administratively permitted, or prohibited use. The planning official shall apply the following criteria to decide how the use will be regulated by this title:
1. A proposed use is a subcategory of a by-right, conditional, or administratively permitted use if, with regard to each of the decision criteria enumerated in subsection B, the proposed use's impacts are not materially greater than the by-right, conditional, or administratively permitted use with the more general NAICS code.
 2. A proposed use is functionally comparable to a by-right, conditional, administratively permitted use if it is reasonably comparable to the by-right, conditional, or administratively permitted use, and with regard to each of the decision criteria enumerated in subsection B., the proposed use has no greater impacts than the by-right, conditional, or administratively permitted use with which it is functionally comparable.
- C. Decision Criteria. The following decision criteria shall be evaluated when the planning official decides whether a proposed use is a subcategory of, or is functionally comparable to, a by-right, conditional, or administratively permitted use:
1. Parking demand;
 2. Average daily and peak hour trip generation (cars and trucks);
 3. Impervious surface;
 4. Noise;
 5. Lighting;
 6. Dust;
 7. Odors;
 8. Potentially hazardous conditions, such as projectiles leaving the site;
 9. Use and storage of hazardous materials;
 10. Character of buildings and structures;
 11. Character of operation; and
 12. Hours of operation.

D. Effect of Determination.

1. If the planning official approves an application for a decision pursuant to this section, then the use is allowed as a by-right, conditional, or administratively permitted use, with the same restrictions as the use to which it was compared for the purposes of the favorable decision.
2. If the planning official determines that a proposed use is not a subcategory of, or functionally comparable to, a by-right, conditional, or administratively permitted use, then the proposed use is a prohibited use.

Section 5. Amendments to Section 17.48.030 of the Leadville Municipal Code. Section 17.48.030 of the Leadville Municipal Code, titled Manufactured Homes and Mobile Homes, is hereby amended as follows with ~~striketrough text~~ showing deletions and **bold, underlined text** showing additions:

17.48.030 – Manufactured homes and mobile homes.

[...]

B. Mobile homes.

1. Independent mobile homes, as defined in Section 17.08.020, are allowed to be placed only in approved mobile home parks ~~or in the industrial zoning district by a conditional use permit pursuant to Chapter 17.36.~~

[...]

Section 6. Amendments to Chapter 17.50 of the Leadville Municipal Code. Chapter 17.50 of the Leadville Municipal Code, titled Administrative Permits, is hereby amended as follows with ~~striketrough text~~ showing deletions and **bold, underlined text** showing additions:

17.50.010 – Introduction.

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

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

17.50.020 – Submittal requirements.

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

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

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

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

17.50.040 – Criteria for approval of action on an administrative permit application.

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

[...]

17.50.050 – Review and revocation of an administrative permit.

At such intervals as the planning official ~~and the planning and zoning chair~~ may have specified in its initial decision, or when there is an alleged violation of the provisions of an administrative permit, the planning official shall review the terms, conditions or other provisions of the issued administrative permit. **If the planning official determines that a violation exists, the planning official shall provide written notice of the violation to the property owner.** ~~Upon review of the permit provisions, the planning official may~~ **Such notice shall** specify time period(s) in which any violations ~~of the terms or conditions~~ shall be corrected.

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

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

~~Following the review and recommendation to the permit holder the planning official shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the administrative permit holder. Failure of the administrative permit holder to comply within the stipulated time period(s) with any of the conditions under which the permit was issued, or to comply with the original application provisions, shall be adequate reason for revocation of any administrative permit. **If the violation is not corrected within the required time period, the planning official shall revoke the permit by providing written notice to the property owner of revocation and the effective date of revocation.**~~

[...]

Section 7. Amendments to Chapter 17.60 of the Leadville Municipal Code. Chapter 17.60 of the Leadville Municipal Code, titled Accessory Buildings and Uses, is hereby amended as follows with ~~strikethrough text~~ showing deletions and **bold, underlined text** showing additions:

Chapter 17.60 – ACCESSORY USES, BUILDINGS AND ~~USES~~STRUCTURES

17.60.010 – Introduction.

~~Integrated and detached accessory buildings must meet the same setback requirements as principal buildings. The following accessory uses are permitted in the following zoning districts, provided that they are incidental to and on the same premises as a permitted or conditional use. **The following sections provide requirements for accessory uses, buildings, and structures in the city's zoning districts.**~~

17.60.020 – ~~R-1, R-2, TR and TC zoning districts~~ Accessory dwelling unit (ADU) requirements.

Unless otherwise stated, the following requirements shall apply to all zoning districts:

- ~~A. Garages for the storage and owner maintenance of automobiles light trucks and recreational vehicles.~~
- ~~B. Accessory buildings, structures or uses normally required in addition to or in conjunction with any use by right or approved conditional use in the district, including but not limited to accessory dwelling units in the R-1, R-2, TR, and TC zoning districts as a use by right but only with a conditional use permit in the C zoning district. Accessory dwelling units are prohibited in the RC zoning district.~~
- AC.** Detached accessory dwelling units **ADUs** shall be placed on an approved foundation in compliance with applicable adopted building codes and regulations.
- BD.** Accessory dwelling units **ADUs** shall be no larger than fifty (50) percent of the size of the principal building and no smaller than one hundred (100) square feet.
- CE.** Design Standards. An **In all zoning districts except the C zoning district,** ADUs, either integrated or detached, shall be consistent in design and appearance with the primary structure. Specifically, the roof pitch, siding materials, color and window treatment of the ADU shall be complementary with the primary structure. **In the C zoning district, any exterior treatments of an ADU shall complement the principal building.**
- ~~**DE.** Each accessory dwelling unit **ADU** shall have a bathroom with a sink, toilet, and shower or bath at a minimum.~~
- ~~**EG.** Each accessory dwelling unit **ADU** shall have a kitchen with an oven, stove (two-burner minimum), refrigerator and sink at a minimum.~~

~~FH.~~ Each accessory dwelling unit ADU shall have a maximum of two bedrooms.

~~GI.~~ The owners of property upon which an accessory dwelling unit ADU is located shall have an obligation to notify the applicable water and sanitation district of the existence and occupation of the accessory dwelling unit and shall comply at all times with the regulations of such water and sanitation district.

~~HJ.~~ Each accessory dwelling unit must pass the inspection of the building official, **and** any subsequent structural standards which may be adopted by the City of Leadville.

~~IK.~~ Setbacks and heights of buildings that contain detached ADUs must adhere to applicable zoning regulations of the zoning district.

J. For purposes of allowed density, each ADU shall be counted as one (1) unit of density.

K. A maximum of one (1) ADU shall be permitted per primary building.

~~17.60.030 C zoning districts.~~

~~A. Garages as allowed in other districts.~~

~~B. Any accessory buildings, structures or uses required in addition to and in conjunction with any use by right or approved conditional use, including, but not limited to accessory dwelling units necessary to the maintenance or protection of a facility in the TC zoning district as a use by right but only with a conditional use permit in the C zoning district.~~

~~C. Solar energy devices shall maintain the same setbacks as are required for principal buildings, shall not be located within the front yard, and, if freestanding, shall not exceed ten (10) feet in height.~~

~~D. Detached accessory dwelling units shall be placed on an approved foundation in compliance with applicable adopted building codes and regulations.~~

~~E. Accessory dwelling units shall be no larger than fifty (50) percent of the size of the principal building and no smaller than one hundred (100) square feet.~~

~~F. Any exterior treatments of an accessory dwelling unit shall complement the principal building.~~

~~G. Each accessory dwelling unit shall have a bathroom with a sink, toilet, and shower or bath at a minimum.~~

~~H. Each accessory dwelling unit shall have a kitchen with an oven, stove (two burner minimum), refrigerator and sink at a minimum.~~

~~I. Each accessory dwelling unit shall have a maximum of two bedrooms.~~

- ~~J. The owners of property upon which an accessory dwelling unit is located shall have an obligation to notify the applicable water and sanitation district of the existence and occupation of the accessory dwelling unit and shall comply at all times with the regulations of such water and sanitation district.~~
- ~~K. Each accessory dwelling unit must pass the inspection of the building official, or any subsequent structural standards which may be adopted by the City of Leadville.~~
- ~~L. Setbacks and heights of buildings that contain detached ADUs must adhere to applicable zoning regulations of the zoning district.~~

17.60.040030 – Requirements for Other accessory uses, buildings, and structures.

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

~~Fences which are not over six feet in height, and living fences of any height so long as they are not a traffic obstruction shall be considered permitted accessory uses in all districts. Taller fences are permitted accessory use upon inspection by the building official, who shall issue a permit for such fences upon determination that they would~~ **Fences exceeding six (6) feet in height shall not block light, sun, air, vision, or otherwise pose a health or safety hazard or a nuisance to adjacent properties.**

~~No fence, shrubs, trees, sign or any other obstruction shall be permitted in any setback area if it obstructs the sight of drivers at any intersection. Cut firewood stacked in rows shall not be defined as a fence for the purposes of this chapter and shall not be so regulated so long as it does not obstruct the sight of drivers at an intersection.~~

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

~~Any accessory dwelling structure, integrated or detached, intended for habitation shall require a building permit.~~ **Solar energy systems shall maintain the same setbacks as are required for principal buildings, shall not be located within the front yard, and, if freestanding, shall not exceed ten (10) feet in height.**

17.60.070040 – Rentals in all zone districts.

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

Section 8. 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 9. 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 10. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

Section 11. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 12. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on second reading this ____ day of _____, 2023 by a vote of ____ in favor and ____ against.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the

City of Leadville, Colorado, on this _____ day of _____, 2023.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,
with any amendments, this ____ day of _____, 2023.**

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED by title only in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this _____ day of _____, 2023.

CITY OF LEADVILLE

Ordinance No. 3, Series of 2023

An Ordinance Amending Various Sections of Chapters 5.12, 17.08, 17.48, 17.50, and 17.60 of the Leadville Municipal Code Concerning Updates to the Table of Uses and Land Use Definitions

FINDINGS

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



AGENDA ITEM #8C

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: July 5, 2023

SUBJECT: Ordinance No. 3, Series of 2023: An Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code Concerning the Regulations Governing the City's National Historic Landmark Overlay District (second reading)

PRESENTED BY: Chapin LaChance, AICP – Planning Director

- ORDINANCE
 RESOLUTION
 MOTION
 INFORMATION
-

I. **REQUEST OR ISSUE:**

Before City Council for consideration on second reading is Ordinance No. 3, Series of 2023 (“Ordinance”), which if adopted will make comprehensive revisions to Chapter 17.44 of the Leadville Municipal Code in order to protect the City’s unique character and safeguard the City’s historic and cultural heritage as reflected within the National Historic Landmark Overlay District (“NHL District”). This ordinance for consideration would repeal and reenact the entirety of Chapter 17.44. There is two (2) proposed revision since first reading.

II. **BACKGROUND INFORMATION:**

Two (2) revisions since the June 6, 2023 first reading

At the first reading, the City Council requested the following two (2) minor revisions:

- Change the application submittal requirement from “seven copies” to “one (1) hardcopy and one (1) digital copy”. This has been revised as requested (see highlighted excerpt below).

b. Complete applications must include seven copies one (1) hard copy and one (1) digital copy of all materials for ~~substantial~~ projects that were initially determined to be substantial during the pre-application meeting.

- Clarify that written consent is required from a property owner prior to a site visit. This has been revised to specify “written” consent (see highlighted excerpt below).

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 written 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 written 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.

Staff’s report to the Planning and Zoning Commission for the June 14’ 2023 public hearing is attached and includes detailed background information on this ordinance. This ordinance if adopted would make comprehensive amendments to Chapter 17.44 National Historic Landmark District Overlay District, accomplishing three (3) primary objectives:

1. require additions to existing structures, exterior alterations to existing structures, and new commercial construction within the NHL District to obtain a Certificate of Appropriateness (COA), either administratively or through a public hearing process,
2. subject reapplications for demolitions that were previously denied to the procedures and approval criteria in effect at the time of the reapplication, and
3. authorize staff to conduct site visits to properties with a pending COA application.

Prior to first reading, the proposed code amendments were reviewed by the City Council at a December 13, 2022 Joint Historic Preservation Commission (HPC) / City Council Work Session and also at a January 24, 2023 City Council Work Session. In addition, the HPC held two (2) open houses with the public on April 11 and May 9, 2023, with a total of approximately 40-50 members of the public attending the open houses.

III. FISCAL IMPACTS:

None.

IV. LEGAL ISSUES:

None.

VI. PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission (P&Z) held a public hearing of the proposed amendments at its June 14, 2023 meeting. The P&Z recommended that the City Council adopt Ordinance No. 3, Series of 2023.

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. 3, Series of 2023, an Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code Concerning the Regulations Governing the City’s National Historic Landmark Overlay District on second reading with the attached Findings.”

IX. ATTACHMENTS:

- Staff’s report to the P&Z for the June 14, 2023 public hearing, including Findings
- Redline version of proposed amendments to Ch. 17.44
- Ordinance No. 3, Series 2023



MEMO

TO: Planning and Zoning Commission

FROM: Chapin LaChance, AICP - Planning Director

MEETING DATE: June 14, 2023

SUBJECT: Ordinance No. 3, Series of 2023: An Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code Concerning the Regulations Governing the City's National Historic Landmark Overlay District

Planning and Zoning Commission,

The City's Historic Preservation Commission (HPC) and staff propose amendments to Leadville Municipal Code Chapter 17.44 National Historic Landmark District Overlay District. This ordinance if adopted would accomplishing three (3) primary objectives:

Summary of Ordinance objectives

1. require additions to existing structures, exterior alterations to existing structures, and new commercial construction within the NHL District to obtain a Certificate of Appropriateness (COA), either administratively or through a public hearing process,
2. subject reapplications for demolitions to the procedures and approval criteria in effect at the time of the reapplication, and
3. authorize staff to conduct site visits to properties with a pending COA application.

Background information

The regulations for the City's historic district are incorporated within Title 17 – Zoning. Pursuant to Chapter 17.92 Rezoning and Amendments, a text amendment to Title 17 requires the Planning and Zoning Commission (P&Z) to hold a public hearing on the text amendment and make a recommendation to City Council, prior to the public hearing by City Council.

After numerous HPC Work Sessions, the proposed amendments have been reviewed at the following public meetings:

12/13/2022: Joint HPC / City Council Work Session
1/24/2023: City Council Work Session
4/11/2023: Public open house #1 at HPC meeting
5/9/2023: Public open house #2 at HPC meeting
6/6/2023: City Council first reading

Historic Preservation in Leadville

For the benefit of the P&Z, background information on the importance of historic preservation in Leadville is provided below.

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 Comprehensive 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 19th-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 the remainder of the NHL District.

Explanation of Amendments

Require COA for additions to existing structures, exterior alterations to existing structures, and new commercial construction within the NHL District

Currently, a COA is required for new infill residential construction within the entire NHL District, 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.

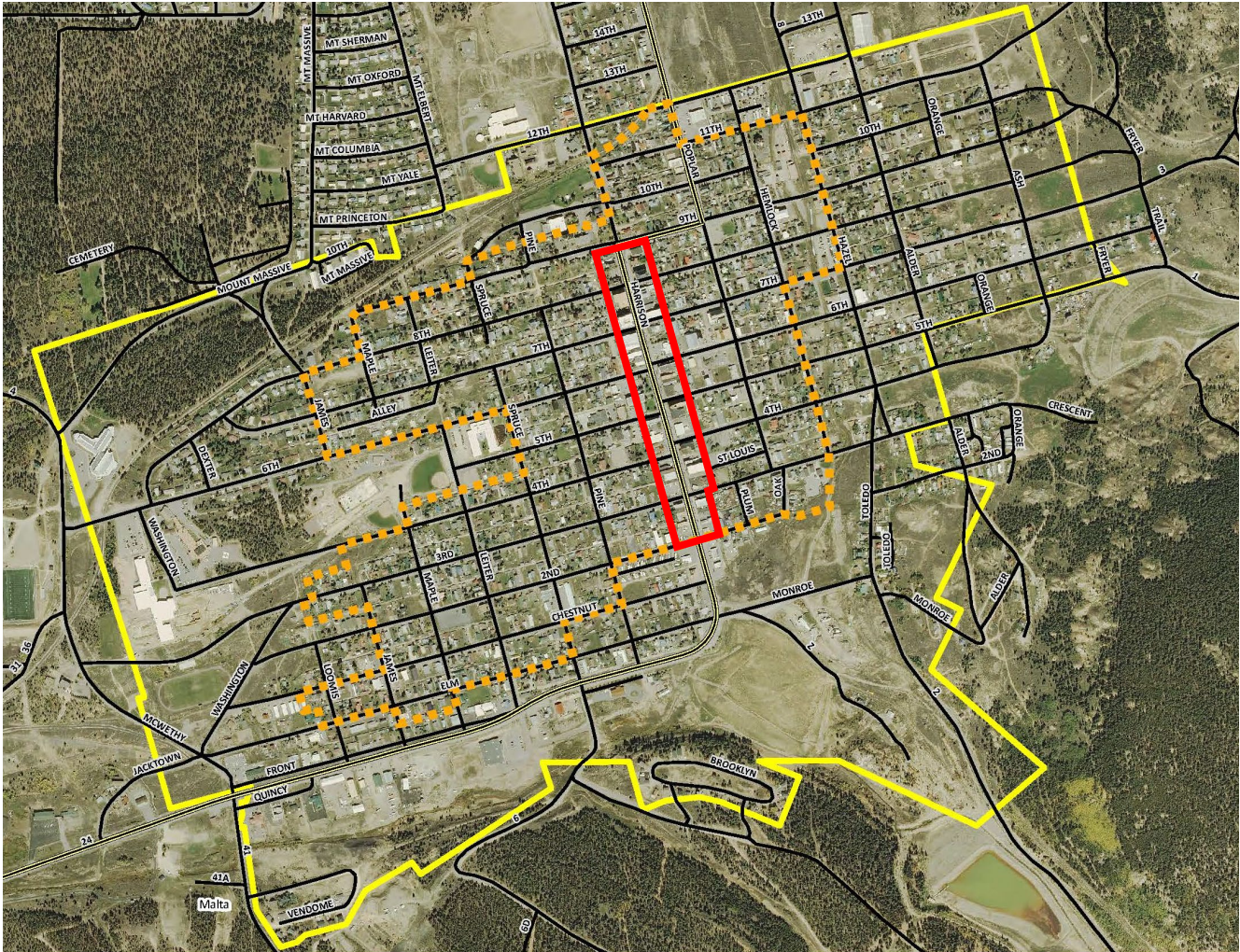


Image 1 (above): Yellow = City boundary, Orange = NHL District Boundary, Red = Retail Core (RC) Zone

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 and the HPC are concerned regarding the number of exterior alterations and additions to historic structures that could occur without being subject to a COA requirement.

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

- Case study: 218 E. 9th St. addition: In 2021, the City of Leadville received a COA application for an addition to a historic structure at 218 E. 9th 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 of proposed addition to historic structure at 218 E. 9th 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 status 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.

Subject reapplications for demolitions to the procedures and approval criteria in effect at the time of the reapplication

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 and the HPC recommends the City 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 City has concerns with the content of the municipal code after denying an application for demolition, it is within the City 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.

Authorize staff to conduct site visits to properties with a pending COA

The proposed amendments would allow the Planning Official and the Advisory HPC Committee Members to conduct a site visit (if deemed necessary and with the property owner’s written consent) to the property with the pending COA application in order to inspect the site and structures and take photographs to include in the staff report to the HPC and City Council. 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 HPC and Council as to whether historic door or window openings are being modified.

17.92.030 - Approval criteria.

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

1. *Is consistent with the city's comprehensive plan, as amended from time to time;*

The 2015 Comprehensive Plan makes numerous references to the importance of historic preservation in Leadville’s historic district, as shown in Appendix A. The proposed amendments support the maintainance of the character of the District.

2. *Does not conflict with other provisions of this title or this code;*

Staff is not aware of any conflicts.

3. *Addresses a demonstrated community need;*

Considering that demolitions, additions, alterations, and new commercial construction can reduce the number of structures that contribute to the City’s NHL District, and that other nearby mountain communities with federally recognized historic districts have experience development which significantly reduced the number of contributing structures, staff finds the proposed amendments address the need to maintain the character of the historic district.

4. *Responds to changing city policy or conditions; and*

Real estate market conditions in Colorado mountain have changed since the pandemic, and property values have significantly increased in Leadville. With increased property values, it is reasonable to expect increased future market demand for both demolition and redevelopment of historic structures. The proposed Ordinance responds to changing real estate market conditions by implementing appropriate requirements for both demolition and redevelopment.

5. *Is consistent with the purpose and intent of the zoning districts in this title, would improve compatibility among land uses, or would result in an orderly and logical development pattern.*

Section 17.04.040 – Purpose states *“The purpose and intent of this title shall... include but not necessarily be limited to... L.Protect Leadville's National Historic Landmark district, ensuring its continuing viability.”*

Considering the purpose and intent of the zoning ordinance includes protecting the NHL District, and the proposed Ordinance would strengthen the codified regulations for the NHL District, staff finds this criteria is met.

Staff Recommendation

Staff recommends the Planning and Zoning Commission recommend that the City Council adopt the proposed text amendment with Ordinance No. 2, Series of 2023, with the attached Findings. A suggested motion is below:

“I move that the Planning and Zoning Commission recommend that the City Council adopt Ordinance No. 3, Series of 2023, an Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code Concerning the Regulations Governing the City’s National Historic Landmark Overlay District.”

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.*

CITY OF LEADVILLE

Ordinance No. 2, Series of 2023

**An Ordinance Repealing and Reenacting Chapter 17.44 Of the Leadville Municipal Code
Concerning the Regulations Governing the City's National Historic Landmark Overlay District**

FINDINGS

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

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, total" 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.~~

"Demolition, partial" means any act or process which destroys, in part, a historic structure.

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

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

"HPC advisory committee" means the historic preservation commission advisory members and planning official.

"Modification, Insubstantial" means 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, or
- 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. "Modification, Substantial" means the following:

- a. an activity not defined or qualifying as an insubstantial activity, including, but not limited to: reconstruction, rehabilitation, remodeling, renovation, relocation, partial demolition, or total 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, or
- 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.

"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.

"Preservation" means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.

"Rehabilitation" means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

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

"Restoration" means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

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.

17.44.040 General restrictions.

- A. Unless otherwise provided in this chapter, any construction, exterior alteration, erection, relocation, demolition, restoration or improvement of any structure delineated in Section 17.44.030 ~~A~~ 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~~ 17.44.020 B. 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.~~

~~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.~~

DB. 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~~ on June 20, 2000, the date of adoption of ~~the~~ Ordinance No. 8, Series 1999 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;

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2. A narrative statement, with any appropriate supporting information, describing why such revocation of a historic structure designation should be granted.

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

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

- D. Considerations in Designating, and Revoking Designations of, Historic Structures. In deciding whether to designate, revoke the designation of a historic structure, the historic preservation commission and city council shall base their decision on the following criteria:
 1. The goals objectives, policies and other provisions of the Leadville comprehensive plan, as amended;
 2. The character, interest and value of the structure as part of the development, heritage, history and culture of the city and the State of Colorado;
 3. The location of the structure and its site in relationship to historical events;
 4. The identification of the structure with a person or persons who significantly contributed to the development of Leadville and the surrounding area;
 5. The importance of the structure to the cultural, historical, social and economic heritage of Leadville;
 6. The extent to which the structure displays visual features either typical of or unique to a past historical period;
 7. The historic and economic relationship of the structure to surrounding structures and other features of importance within Leadville's NHL district.

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

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- 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) 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 Ccomplete Application ~~for Substantial Projects~~.
 - a. The city shall not process any application until an Aapplicant ~~must~~ submits 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.
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- b. Complete applications must include ~~seven copies~~ one (1) hard copy and one (1) digital copy 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.
- 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 written 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 written 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 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.

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- 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);
 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.

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 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:

Review Criteria for Total Demolition:

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.

Review Criteria for Partial Demolition:

1. The partial demolition is required for the preservation, restoration or rehabilitation of the building, structure or object;

2. The applicant has mitigated, to the greatest extent possible:

a. Impacts on the historic importance of the buildings, structures or objects located on the property, and

b. Impacts on the architectural integrity of the buildings, structures or objects located on the property.

- 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.
- ~~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.
- 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.

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 3
SERIES OF 2023**

**AN ORDINANCE REPEALING AND REENACTING CHAPTER 17.44 OF THE
LEADVILLE MUNICIPAL CODE CONCERNING THE REGULATIONS GOVERNING
THE CITY’S NATIONAL HISTORIC LANDMARK OVERLAY DISTRICT**

WHEREAS, the City of Leadville (“City”) previously adopted regulations governing the City’s National Historic Landmark Overlay District (“NHL District”), codified in Chapter 17.44 of the Leadville Municipal Code (“Code”); and

WHEREAS, the Historic Preservation Commission and the Planning and Zoning Commission have identified comprehensive revisions to Chapter 17.44 of the Code to protect the City’s unique character and safeguard the City’s historic and cultural heritage as reflected within the NHL District; and

WHEREAS, the City Council has reviewed the recommendations of the Historic Preservation Commission and Planning and Zoning Commission and finds that the revisions set forth in this Ordinance are consistent with the purpose and intent of Chapter 17.44 and the NHL District; and

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

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

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

Section 2. Chapter 17.44 of the Leadville Municipal Code, titled National Historic Landmark District Overlay (NHL) District, is repealed in its entirety and reenacted in full to read as follows:

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. 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, total" means any act or process which destroys, in whole, a historic structure.

"Demolition, partial" means any act or process which destroys, in part, a historic structure.

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

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

"HPC advisory committee" means the historic preservation commission advisory members and planning official.

"Modification, Insubstantial" means 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, or
- 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. "Modification, Substantial" means the following:
 - a. an activity not defined or qualifying as an insubstantial activity, including, but not limited to: reconstruction, rehabilitation, remodeling, renovation, relocation, partial demolition, or total 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, or
 - 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.

"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.

"Preservation" means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.

"Rehabilitation" means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

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

"Restoration" means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

17.44.030 Applicability.

- A. These regulations shall apply to:
1. All new construction within the NHL district;
 2. Any exterior alterations to any structure, existing at the date of adoption of the ordinance codified in this chapter within the 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.
- 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.

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 **A** 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 planning official deems the proposed exterior structural or cosmetic change to be insubstantial, as defined in section 17.44.020 B. If any construction, exterior alteration, erection, relocation, demolition, restoration or improvement of any structure is deemed by the planning official to be an insubstantial modification, the planning official shall issue a COA administratively without further review by HPC or city council. Any potential applicant wishing to receive a determination of insubstantiality shall submit to the HPC advisory committee a completed certificate of appropriateness application on a form provided by the city, with supporting documentation including but not limited to photographs, drawings and any other appropriate material.
- 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 on June 20, 2000, the date of adoption of Ordinance No. 8, Series 1999 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.

- 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;

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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 may be approved administratively by the planning official where the proposed structural or cosmetic change is determined to be an insubstantial modification or where the city planning official determines, in accordance with Chapter 15.44 of this code, that the residential infill development 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 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 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 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.
 - 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 HPC advisory committee and payment of application fees as may be established by the city council.
 - b. Complete applications must include ~~seven copies~~ one (1) hard copy and one (1) digital copy of all materials for 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.
 - 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 written 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 written 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.
 - g. 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 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, non-landmark, 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, non-landmark, 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, non-landmark, 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);
 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;
 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
 - 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 planning official or designee in an informal pre-application 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.
- 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 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.
- F. No demolition of a historic structure may occur except as provided in this subsection F. Applicants requesting a COA for demolition must provide evidence to clearly demonstrate that the request meets all of the following criteria:
 - a. Review Criteria for Total Demolition:
 - 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 archaeological information can be recovered as part of the demolition process.
 - b. Review Criteria for Partial Demolition:
 - 1. The partial demolition is required for the preservation, restoration or rehabilitation of the building, structure or object;
 - 2. The applicant has mitigated, to the greatest extent possible:
 - a. Impacts on the historic importance of the buildings, structures or objects located on the property, and
 - b. Impacts on the architectural integrity of the buildings, structures or objects located on the property.
- G. 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.

- H. 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.

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.
- 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.

Section 3. Severability. Should any one or more sections or provisions of this ordinance or enacted hereby 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 4. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this ____ day of _____, 2023.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the _____ day of _____, 2023.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED, with any amendments, this _____ day of _____, 2023.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this _____ day of _____, 2023.

July 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
25 7am - LTF Trail 100 Run 9am - Animal Shelter	26	27 4pm - HPC - Regular Mtg	28 6pm - P&Z Meeting @	29	30 7am - LTF MTB Camp of	1 7am - LTF MTB Camp of
2 7am - LTF MTB Camp of	3	4 Independence Day - City 8:30am - Firecracker 5k 10am - 4th of July Parade 11am - BOCC @ 505	5 6pm - Regular CC Mtg	6 6pm - LURA Board	7	8
9	10	11 4pm - HPC Meeting @	12 5pm - Sanitation @ 6pm - P&Z Meeting @	13 1pm - Leadville Municipal 5:15pm - Parkville Water	14	15
16	17	18 8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Regular CC Mtg @	19	20	21	22
23	24	25 4pm - HPC - Regular Mtg	26 6pm - P&Z Meeting @	27	28	29
30	31 11am - BOCC @ 505 6pm - Regular CC Mtg	1	2	3 6pm - LURA Board	4	5

August 2023

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

September 2023

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