

CITY OF LEADVILLE, COLORADO
Ordinance No. 3
Series of 2019

**AN ORDINANCE AMENDING TITLE 17 OF THE LEADVILLE MUNICIPAL CODE
BY ADOPTING A NEW CHAPTER 17.54 CONCERNING SITE PLAN REVIEW
AND APPROVAL PROCEDURES**

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 is also authorized pursuant to Title 29, Article 20 of the Colorado Revised Statutes to regulate land uses and the orderly development of land; and

WHEREAS, the City Council desires to establish application submittal requirements, review procedures, and approval criteria for site development within the City of Leadville to ensure the City’s standards, rules, and regulations are met; and

WHEREAS, the City of Leadville Planning and Zoning Commission (“Planning Commission”) considered the amendments to the City’s zoning ordinance at a public hearing on June 26, 2019 and found that the amendments are consistent with the City’s Comprehensive Plan; and

WHEREAS, the Planning Commission therefore recommends approval by City Council of the addition of a new Chapter 17.54 to the Municipal Code concerning site plan review and approval procedures; and

WHEREAS, the City Council finds that adoption of this Ordinance furthers the public health, safety and welfare and desires to approve the Ordinance for incorporation into the Municipal Code.

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

Section 1. Title 17 of the Leadville Municipal Code, titled “Zoning”, is hereby amended to add a new Chapter 17.54, titled “Site Plan”, which shall read in full as follows:

Chapter 17.54

SITE PLAN

17.54.010 - Introduction.

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

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

17.54.020 - Applicability.

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

- A. The following applications and projects are subject to the site plan approval process:
 - 1. All new uses and structures;
 - 2. Any modification of an existing structure or redevelopment;
 - 3. Any request that would, in the opinion of the planning official, significantly alter the design of the site or building(s) proposed to be constructed or modified;
 - 4. Any request to change or delete a condition of approval established by the planning and zoning commission; and
 - 5. Any construction or modification of three (3) or more dwellings on a single parcel or lot. Accessory dwelling units do not apply as a separate unit on a single lot.

- B. The following applications and projects are exempt from the site plan approval process set forth in this chapter:
 - 1. Single-family detached dwellings and accessory structures thereto.
 - 2. Two-family dwellings and accessory structures thereto.
 - 3. Any proposed modification of an existing structure where less than twenty percent (20%) of gross square footage of the existing structure is being modified, provided that the modification does not exceed one thousand (1,000) gross square feet.

C. Thresholds for Site Plan Review Type.

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

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

17.54.030 – Submittal Requirements.

Site plan applications shall be submitted to the planning official. The planning official is authorized to impose submittal requirements, as the planning official reasonably determines are necessary, in addition to any requirements listed in this section, to be determined on a case by case basis. Additional submittal requirements may include traffic, utility, environmental, or other studies deemed necessary to evaluate potential impacts to the city.

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

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

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

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

- A. Pre-Application Meeting.** The planning official may require or the applicant may request a pre-application meeting with the planning official or the planning and zoning commission to discuss the application prior to formal or final submittal for Administrative Site Plans and Minor Site Plans. A pre-application meeting shall be required for all Major Site Plans.
- B. Application Submittal.** Site plan applications, with all supporting documents and fees, shall be submitted to the planning official to review for compliance with the requirements of the applicable provisions of this code.
- C. Completeness Determination.** An application determined to be complete by the planning official will be forwarded to the Commission Chair for second review. If the Commission Chair finds the application incomplete, it will be returned to the planning official for appropriate action. If the Commission Chair finds the application complete and adequate, the application will be processed in accordance with the provisions set forth in this chapter.
- D. Referral Agency Review.** The planning official will refer complete site plan applications and supporting materials to local agencies, as such term is described and defined in section 16.28.070 of the code. The planning official may refer a site plan application to all agencies, as such term is described and defined in section 16.28.070 of

the code, if the planning official determines that such referral is appropriate based on the size and scope of the site plan under review. If the entire property that is the subject of a site plan application or a portion thereof falls within Leadville's National Historic Landmark District Overlay (NHL) District, the Historic Preservation Commission (HPC) shall review the application for compliance with the NHL design guidelines.

E. Review and Action.

- a. **Administrative Site Plan.** The planning official shall render a decision to either approve, approve with conditions, or deny the application based on the criteria as outlined in section 17.54.050 of this chapter. Such decision shall be sent to the applicant in writing.
- b. **Minor Site Plan.** The planning official will prepare a report and present findings to the planning and zoning commission. The planning and zoning commission shall render a decision to either approve, approve with conditions, or deny the application based on the criteria as outlined in section 17.54.050 of this chapter.
- c. **Major Site Plan.** The planning official will prepare a report and present the findings to the planning and zoning commission. The planning and zoning commission shall make a recommendation to the city council to either approve, approve with conditions, or deny the application based on the criteria as outlined in section 17.54.050 of this chapter. City council shall render a decision to either approve, approve with conditions, or deny the application based on the criteria as outlined in section 17.54.050 of this chapter.

F. Conditions of Approval. The planning and zoning commission may impose reasonable conditions upon any site plan approval which are necessary to ensure continued conformance with the Leadville Municipal Code, or which are necessary to protect the health, safety and welfare of the city and its residents.

G. Notice. Notice requirements for public hearings before the planning and zoning commission or the city council to consider a site plan application shall be the same as the notice requirements for a conditional use permit set forth in chapter 17.52 of this code.

H. Post-approval.

1. **Building permit and construction.** No building permit shall be issued for any structure or use that does not conform to an approved site plan. The construction, location, use, or operation of all land and structures within the site shall conform to all conditions and limitations set forth an approved site plan. No structure, use, or other element of approved site plan shall be eliminated, altered, installed or constructed in another manner unless an amended site plan is approved.
2. **Expiration.** Approval of any site plan shall expire two (2) years after the date of approval if a building permit has not been obtained or if the approved use has not been established. In the event that the approval of a site plan expires pursuant to this section, a new site plan application must be submitted for approval in the same manner as an original site plan application.

3. **Modifications to site plans.** The holder of an approved site plan may request a modification to the approved site plan or the conditions of approval of an approved site plan by submitting an amended site plan application to the planning official. The amended application shall be filed and processed in accordance with the procedures for an initial site plan submittal.

17.54.050 - Criteria for Site Plan Approval.

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

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

17.54.060 – Administrative Appeal Procedure.

A. Generally.

1. The purpose of this section is to provide an opportunity for affected parties to seek review of a decision of the planning official or the planning and zoning commission in a timely and cost effective manner.
2. Administrative appeals shall be heard and decided by the city council.
3. A decision that is subject to the administrative appeal process set forth in this section includes any order, requirement, decision, or determination made by the planning and zoning commission or planning official.

B. Standards to be Reviewed. The City Council will decide appeals according to the same standards that the decisionmaker was to apply to the application.

C. Scope of Review.

D. No evidence shall be presented to the city council that was not considered by the planning official or planning and zoning commission, as applicable; and

1. No issues shall be reviewed by the City Council that were not described or obviously implied by the petition for appeal.

E. Appeal Petition. An applicant may initiate an administrative appeal by filing a petition, along with the required fee, with the planning official on forms provided by the city. The petition shall include the following information:

1. The name, address, and telephone number of the petitioner;
2. A short statement indicating the nature of the application, the application number, the date of the decision by the planning official or planning and zoning commission;
3. A copy of the written decision of the planning official or planning and zoning commission; and
4. A short but specific statement regarding how the decision appealed violates the Leadville Municipal Code. The statement shall refer to the particular section numbers upon which the petitioner relies, and shall not make a general reference to noncompliance with this code (i.e., “the application did not comply with the Leadville Municipal Code,” without more, is not a sufficient statement of the issues and will be rejected).

F. Timing of Appeal. Appeal petitions shall be filed within fourteen (14) days of the date of the decision being appealed. Failure to file within fourteen (14) days shall cut off the right of appeal.

G. Hearing. The city council shall hold a hearing on the appeal according to the following procedures:

1. Order of Presentation. The appeal hearing shall be ordered as follows:
 - a. The petitioner shall present the appeal.
 - b. The city (respondent) shall present a response.
 - c. The petitioner may cross-examine the respondent.
 - d. The respondent may cross-examine the petitioner.
 - e. The petitioner may make a closing argument.
 - f. The respondent may make a closing argument.
2. Questions of Participants. The city council may ask questions of a participant at any time.

H. Decision.

1. Following a properly noticed public hearing, the city council may affirm, reverse, or amend any underlying decision.
2. Decisions regarding appeals shall be reduced to writing by the City Administrative Services Director or his or her designee, who shall include the material factual basis for the decision and shall be executed by the Mayor. The Mayor’s signature gives effect to the decision but does not constitute the Mayor’s approval of the decision, which is not required.

I. Standards. The City Council will affirm the underlying decision unless it finds that:

1. The underlying decision was an abuse of discretion; or
2. The underlying decision was not supported by the facts found in the record of the proceeding before the Planning and Zoning Commission.

J. Review of City Council's Decision. The city council's decision is a final decision reviewable pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

Section 2. Remaining provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 3. Codification Amendments. The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 4. 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 5. 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.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 2nd day July, 2019.

CITY OF LEADVILLE, COLORADO



Greg Labbe, Mayor

ATTEST:



Bethany Maher, Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on this 6th day of August, 2019.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY
TITLE ONLY, with any amendments, this _____ day of _____, 2019.

CITY OF LEADVILLE, COLORADO



Greg Labbe, Mayor

ATTEST:



Bethany Maher, Deputy City Clerk

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