

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 4
SERIES OF 2022**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 17.92 OF THE
LEADVILLE MUNICIPAL CODE CONCERNING REZONING AND ZONING
CODE AMENDMENTS, ADDING A NEW CHAPTER 17.84 RELOCATING
THE CITY'S VESTED RIGHTS REGULATIONS, AND AMENDING
SECTION 17.52.030 OF THE LEADVILLE MUNICIPAL CODE**

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, City Council desires to update and streamline the City's procedures for rezonings and amending its zoning code; and

WHEREAS, making such updates requires the relocation of the City's vested rights regulations and a minor amendment to section 17.52.030 of the Leadville Municipal Code; 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 recitals contained above are incorporated herein by this reference and are adopted as findings and determinations of the City Council.

Section 2. **Section 17.52.030 Amended.** Section 17.52.030 of the Leadville Municipal Code, titled "Procedures for review and action on conditional use applications," is hereby amended to delete subsection I. The remaining subsections of section 17.52.030 shall be renumbered as necessary to accommodate this amendment.

Section 3. Chapter 17.84 Added. A new Chapter 17.84, titled “Vested Rights,” is hereby added to Title 17 of the Leadville Municipal Code to relocate the City’s vested rights provisions. Chapter 17.84 shall read in full as follows:

Chapter 17.84 – VESTED RIGHTS

17.84.010 – Site specific development plan.

For all developments, the final approval step, regardless of its title, which occurs prior to building permit shall be considered the "site specific development plan" for purposes of Article 68 of Title 24, C.R.S.

17.84.020 – Creation of vested property rights.

In the event an applicant for site development approval wishes the approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered. Failure to so request renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created thereby.

17.84.030 – Amendment to site specific development plan.

In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless city council specifically finds to the contrary and incorporates such finding in its approval of the amendment.

17.84.040 – Relationship to state vested property rights statute.

Nothing in this section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this subsection shall be deemed to be repealed, and the provisions hereof no longer effective.

17.84.050 – Rezoning approvals.

No actions taken under this title regarding rezoning of land within the city shall be construed as representing the approval of a site-specific development plan or in any other fashion authorizing the establishment of vested real property rights as defined by Title 24, Article 68, C.R.S., as amended, or by common law.

Section 4. Chapter 17.92 Repealed and Replaced. Chapter 17.92, titled “Rezoning and Amendments,” is hereby repealed and replaced to read in full as follows:

Chapter 17.92 – REZONING AND AMENDMENTS

17.92.010 – Purpose and applicability.

- A. The procedures set forth in this chapter provide a process to amend the official zoning district map of the city, the text of this title, and the zoning classification of any parcel in the city. An amendment to the zoning classification of a parcel or an amendment to the official zoning district map of the city may be referred to as a “rezoning” in this code. Amendments to the text of this title may be referred to as “text amendment(s).” This chapter is not intended to relieve the particular hardships of or confer special privileges or rights on any person.
- B. Rezoning may be initiated by city council, the planning and zoning commission, city staff, or the owner of real property subject to a proposed rezoning or the owner’s agent.
- C. Text amendments to this title 17 may be initiated by the city council, the planning and zoning commission, or city staff.

17.92.020 – Procedure.

- A. Generally. The table below outlines the steps that must be taken pursuant to this chapter:

Procedure	Action
Step 1*	Pre-application conference (optional)
Step 2*	Application submittal
Step 3*	Staff review/acceptance/revision/withdrawal
Step 4	Scheduling and notice of public hearings
Step 5	Public hearings
Step 6	Post-approval actions

*This step is not applicable to city-initiated rezonings and text amendments.

- B. Step 1: Pre-application conference. An applicant may request a pre-application conference with city staff prior to the applicant’s submission of an application pursuant to this chapter. The purpose of a pre-application conference is to provide an opportunity for the applicant to meet with city staff to discuss submittal requirements, procedures for approval, applicable fees, and timeframes for approval of a rezoning application. The conference also allows staff to convey any details regarding potential impacts of the proposed rezoning to the applicant.
- C. Step 2: Application Submittal. An application for a rezoning shall be submitted, accepted, and may be revised or withdrawn in accordance with this section.

1. Application.

- a. The application shall be submitted to the deputy city clerk on forms approved by the city.
- b. The applicant bears the burden of ensuring that an application contains sufficient information and supporting documents to demonstrate compliance with application requirements and any other request made by city staff.

2. Application Fees.

- a. Application fees shall be paid at time of application submittal according to the city's fee schedule. Fees shall be established by resolution of the city council. Applications will not be processed until fees are paid in full.
- b. As provided in chapter 17.96 of this code, if the city determines that additional funds are needed to complete the application review, including for retention of outside professional services or city consultants, the city may impose additional application fees to recover the city's actual costs in completing review of the application. If the city will incur such additional costs, the city shall notify the applicant of the estimated amount of such additional costs. The applicant shall submit a deposit in the amount of the city's estimated costs to the city before the city completes the application review.
- c. If the deposit amount is greater than the city's actual costs, the applicant shall be reimbursed the deposit amount less the city's actual costs.
- d. If the city incurs costs in addition to the deposit amount, the city will notify the applicant in writing of the additional amount due to the city. If the applicant does not pay those costs within thirty (30) days after the date of the written notice from the city, the city reserves the right to stop processing the application until such additional amount is paid.

D. Step 3: Application Review.

1. The deputy city clerk or his or her designee, in consultation with additional staff or consultants as necessary, shall determine whether the application is complete or incomplete within ten (10) business days of the date the city receives the application and provide the applicant with a written notification of such determination.
2. Applicants must submit the following for the application to be complete:
 - a. Complete application form;
 - b. Appropriate fees and deposit, as applicable;
 - c. Proof of ownership of the property subject to the rezoning, such as copies of deeds or title commitments;

- d. Written authorization to submit the application from property owner(s) if the applicant is an agent acting on behalf of the owner;
 - e. Certified boundary and improvement survey;
 - f. Traffic impact analysis or study;
 - g. Legal description of the parcel subject to the proposed rezoning; and
 - h. A written description of the rezoning request that contains sufficient detail to convey the full intent of the application and a justification of why the rezoning is appropriate. The written description must address how the application meets each of the applicable approval criteria set forth in this chapter.
3. Incomplete applications shall not be processed or reviewed. The city shall provide written notice of application deficiencies to the applicant, and the applicant may correct the deficiencies and resubmit the application for a determination of application completeness. An incomplete application that is not resubmitted within ninety (90) days of written notice of deficiencies from the city shall be considered abandoned.
 4. After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a written notice of withdrawal to the deputy city clerk. If an application is withdrawn after publication of the required notice of any scheduled public hearing, the application shall be subject to the limitations on submittal of subsequent applications set forth in this section. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the city may refund fees not expended during the staff review of the application if the application is withdrawn prior to completion of such review.

E. Step 4: Scheduling and Notice of Public Hearings.

1. After staff has reviewed the application and determined it is complete, staff will schedule the application for review by the planning and zoning commission and by the city council. Review by each body shall be conducted at a properly noticed public hearing.
2. For each public hearing, the city shall publish notice of the scheduled public hearing in a newspaper of general circulation at least fifteen (15) days before the public hearing.
3. If the application is for a rezoning initiated by a property owner or the owner's agent, the applicant shall mail notice of each public hearing and post the subject parcel with notice of each public hearing, using forms provided by the city, at least fifteen (15) days before the applicable public hearing.
 - a. The applicant must mail such notices via first class mail to all property owners within two hundred (200) feet of the subject parcel.

- b. The applicant must post the subject parcel with one (1) notice, which must be clearly visible from the most heavily traveled adjacent street or public right-of-way and shall remain on the parcel until after the hearing.
 - c. Proof of the applicable mailing and posting shall be provided to the city at least forty-eight (48) hours prior to each public hearing. Failure to provide such proof may result in continuation or cancellation of the public hearing.
- 4. For a city-initiated rezoning, the city shall provide mail and posting notices in accordance with this Step 4 if the rezoning applies to a single property. A city-initiated rezoning that is for more than a single property is legislative in nature and requires the city to publish notice of the public hearings in accordance with this Step 4 in a newspaper of general circulation only. No posting or mailing of notices shall be required.
 - 5. Nothing in this section shall be construed to prevent notice of both the required public hearings to be published, mailed or posted, as required, in a single notice at least fifteen (15) days prior to the first public hearing.

F. Step 5: Public Hearings.

- 1. Planning and Zoning Commission Public Hearing.
 - a. Prior to the public hearing by city council, the planning and zoning commission shall hold a public hearing on the rezoning or text amendment. The planning and zoning commission shall consider the application, if applicable, relevant support materials, any staff report created, and any evidence and public comments from the public hearing.
 - b. Based on the information presented at the hearing and the approval criteria set forth in this chapter, the planning and zoning commission shall make a recommendation to city council to approve, approve with conditions, or deny the rezoning or text amendment based on the applicable approval criteria set forth in this chapter. The reasons for such recommendation shall be clearly stated in the record and may be provided in writing to city council for consideration at council's public hearing. The planning and zoning commission may continue a public hearing to a time and date certain to obtain additional information from city staff or the applicant, provided that such continuance does not exceed thirty (30) days.
- 2. City Council Public Hearing.
 - a. Following the public hearing of the planning and zoning commission, city council shall hold a public hearing on the rezoning or text amendment. City Council shall consider the application, if applicable, relevant support materials, any staff report created, any evidence and public comments from the public hearing held by city council, and the recommendation of the planning and zoning commission.

- b. Based on such information and the approval criteria set forth in this chapter, the city council shall approve, approve with conditions, or deny the rezoning or text amendment. The reasons for such decision by city council shall be clearly stated in the record. The city council may continue a public hearing to a time and date certain to obtain additional information from city staff or the applicant.
 - c. For decisions on rezoning applications of a property owner or their agent, the city shall provide a written notification of the city council's decision to the applicant within thirty (30) days of the public hearing.
3. **Conditions of Approval.** Any conditions of approval recommended by the planning and zoning commission or imposed by city council shall be limited to conditions deemed necessary to ensure compliance with the requirements of this code and shall relate to the anticipated impacts of the proposed rezoning or text amendment.
 4. The final decision on a proposed rezoning expressly rests in the exercise of the discretion of city council, and all applicants are advised that there is no right to a change of zone of property.

G. Step 6: Post-decision actions and limitations.

1. Following approval of a rezoning, the city shall prepare an appropriate revision to the official zoning district map of the city.
2. For rezonings initiated by a property owner or owner's agent, any modification of an approved rezoning shall require a new application to be submitted and reviewed in accordance with this chapter.
3. Following denial of a property owner's application for rezoning, the city shall not consider or process any applications related to the subject parcel that are the same or substantially similar for one (1) year following the city's denial of the application. This one-year period may be waived by the city if an applicant adequately demonstrates that there is a substantial change in circumstances, new and relevant information is available, or the new application is materially different than the previous application. City council must approve the waiver of the one-year period before city staff begins to process the new application.
4. Approval of a text amendment to this title does not authorize specific development activity.

17.92.030 – Approval criteria.

A. Rezoning approval criteria. In reviewing a proposed rezoning, the planning and zoning commission and city council shall consider whether the proposed rezoning complies with each of the following criteria, as applicable:

1. The rezoning promotes the health, safety, and general welfare of the community;

2. The rezoning will not result in a significant adverse effect on the surrounding area;
 3. The proposed rezoning is in conformity with the city's comprehensive plan, as amended from time to time;
 4. There have been material changes in the character of the neighborhood that justify a rezoning of the subject parcel;
 5. The proposed rezoning will preserve and promote property values in the neighborhood;
 6. Development of the subject parcel in accordance with the proposed rezoning will be in harmony and compatible with surrounding land uses and present development in the area;
 7. Adequate infrastructure and facilities are available to serve the types of uses allowed by the rezoning, or the applicant will upgrade and provide such infrastructure or facilities at the applicant's expense where they do not exist or are under capacity;
 8. The proposed rezoning will not cause or increase traffic congestion in the area;
 9. The existing zoning classification currently recorded on the official zoning map of the city is in error; and
 10. The proposed rezoning is necessary in order to provide for a community need that was not anticipated at the time of the adoption of the current comprehensive plan of the city.
- 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;
 2. Does not conflict with other provisions of this title or this code;
 3. Addresses a demonstrated community need;
 4. Responds to changing City policy or conditions; and
 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 5. Remaining Provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 6. 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 7. 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.

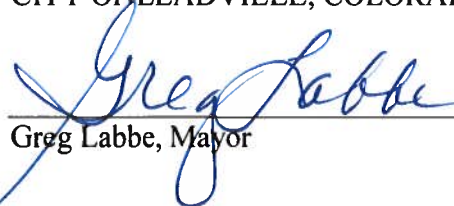
Section 8. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of 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 9. 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 10. 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 1st day of March, 2022.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:

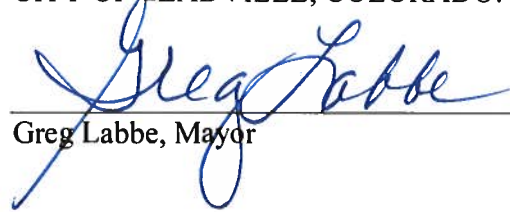


Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the 3rd day of March, 2022.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,
with any amendments, this 15th day of March, 2022.**

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 24th day of March, 2022.

Chapter 17.92 REZONING AND AMENDMENTS

Sections:

17.92.010 General information.

Applications to rezone or change the zoning classification of a parcel or parcels of land or to change the text of this shall be treated as proposed amendments to this zoning regulation and such applications shall comply with the provisions contained herein and elsewhere in this title. Applications for rezoning shall be accompanied by an application form provided by the city, by the appropriate submittal materials and by the necessary filing fees.

(Ord. 99-8 § 1 (part): prior code § 17.27.010(A))

17.92.020 Vested property rights.

- A. For all developments, the final approval step, regardless of its title, which occurs prior to building permit shall be considered the "site specific development plan" for purposes of Article 68 of Title 24, C.R.S.
- B. In the event an applicant for site development approval wishes the approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered. Failure to so request renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created thereby.
- C. In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless city council specifically finds to the contrary and incorporates such finding in its approval of the amendment.
- D. Nothing in this section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this subsection shall be deemed to be repealed, and the provisions hereof no longer effective.
- E. No actions taken under this chapter regarding rezoning of land within the city shall be construed as representing the approval of a site-specific development plan or in any other fashion authorizing the establishment of vested real property rights as defined by Title 24, Article 68, C.R.S., as amended, or by common law.

(Ord. 99-8 § 1 (part): prior code § 17.68.010(B))

17.92.030 Rezoning.

At least fifteen (15) days prior to a public hearing scheduled before city council and the planning commission to consider a rezoning application, a notice of public hearing shall be published in a newspaper of general circulation in the city. Publication of notice(s) shall follow a form prescribed by the city and publication of the notice is the responsibility of the applicant. Applicants shall be billed directly by the newspaper and shall submit proof of publication of the notice and proof of payment with the planning official before the hearing may take place.

In addition, the applicant shall also post notice on the property for which a rezoning is requested at least fifteen (15) days prior to a public hearing scheduled before the planning commission or city council. Such notice shall follow a form prescribed by the city and shall consist of at least one sign facing each adjacent public right-of-way in the case of map amendments.

The applicant shall also deposit in the United States mail, first class postage prepaid, a written notice of said hearing(s), postmarked at least seven days prior to a planning commission or city council hearing date, to owners of record, as listed in the records of the Lake County assessor's office, of all property adjacent to the property proposed for rezoning in the case of map amendments. The notice shall include a vicinity map, a short narrative describing the current zoning, the proposed rezoning and the nature of the proposed land use change along with the date, time and location of the scheduled hearing. The applicant shall submit a signed affidavit, in a city-approved form, to the city prior to the date of the hearing evidencing that the required mailing was performed in accordance with this section. Failure to mail such notice shall not affect the validity of any hearing or determination by planning commission or city council, as applicable.

Rezoning applications may be initiated by:

- A. City council or the planning commission; or
- B. Any citizen or group of citizens, association, partnership or corporation owning or leasing property or residing in the city.

(Ord. 02-10 § 3; Ord. 99-8 § 1 (part): prior code § 17.27.020)

17.92.040 Submittal requirements/map amendments.

Applications for rezoning map amendments shall include a letter of intent and a site plan providing the information required in Section 17.52.020 for a conditional use application. In addition, applicants shall supply the following information and such additional information and documentary material as the planning commission shall reasonably stipulate:

- A. The source and quantity of water required for the proposed use(s) within the area to be rezoned;
- B. The method of wastewater treatment and anticipated quantity of wastewater generated;
- C. When water or wastewater service would be provided by a municipality or a water or sanitation district or other public entity, written confirmation that the public entity in question is willing and able to provide the service in question;
- D. A description of any natural or man-made hazard within or in the vicinity of the land proposed for rezoning and a statement describing how the anticipated impact of such hazards would be mitigated if the proposed rezoning requires such mitigation;
- E. A legal description of the property to be rezoned;
- F. A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding municipal and unincorporated area;
- G. A graphic description of all natural and manmade water courses, retention areas, stream, ponds, ditches and known one hundred (100) year flood plains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater;
- H. A description of any unique features, such as historical sites, unique land forms or scenic vistas, contained within the land proposed for rezoning;
- I. Other such information as the planning commission shall specify by majority vote.

(Ord. 99-8 § 1 (part): prior code § 17.27.030)

17.92.050 Submittal requirements/text amendments.

Applicants for rezoning text amendments to this title shall submit:

- A. A statement of the existing text of this title proposed for amendment or deletion, including specific title citation of the text in question;
- B. A statement of the proposed amendment(s) to the text in question, clearly showing by underlining and strikeout or other readily visible means, the text amendments proposed;
- C. A description of the reasons why the desired amendment(s) and/or deletion(s) are in the public interest and the consequences to public and private groups that would result from adoption of the proposed text amendment(s).

(Ord. 99-8 § 1 (part): prior code § 17.24.040)

17.92.060 Rezoning application review procedures/map and text amendments.

Rezoning applications shall be processed, reviewed and acted upon in the following manner:

- A. Applicants for rezoning are required to schedule an informal preapplication conference with city staff and with the planning commission to agree upon procedures, application costs and submittal requirements in advance of a formal submittal to the city.
- B. The rezoning application, with all supporting documents and fees, shall be submitted to the planning official for review for compliance with the requirements of this title.
- C. The matter shall then be brought before the planning commission in regular or special session and the commission shall rule by majority vote if they are complete and adequate, in which case they shall be accepted for review or, if they are incomplete or inadequate, they shall be returned to the applicant, along with all applicant fees, for revision. The planning commission shall record in its minutes the reason why any materials returned are incomplete or inadequate.
- D. When the application materials are deemed acceptable for review, the applicant shall be so notified and the materials shall be scheduled for review by the planning commission at a public hearing. The planning commission shall determine: (1) if copies of the rezoning application shall be submitted for review by referral agencies and, if so, which referral agencies; and (2) when a public hearing shall be held to consider the rezoning, except that all proposed text amendments and all map amendments including land adjacent to unincorporated territory shall be submitted to Lake County for review.
- E. Rezoning applications that the planning commission determines require referral agency review shall be scheduled for a public hearing not less than three days nor more than thirty-five (35) days after the completion of the forty-five (45) day referral agency review period. In no case before publication of hearing notice in a newspaper of general circulation in Leadville.
- F. Rezoning applications shall be considered at a public hearing jointly held by the planning commission and city council. Referral agencies reviewing amendment application materials shall have thirty (30) days from the date of mailing of the materials to respond to the planning commission with their comments or recommendations. Failure of a referral agency to respond within thirty (30) days shall constitute de facto approval by that agency. Upon request of a referral agency, however, the planning commission may extend the review period an additional fifteen (15) days, with written notice of such extension to the applicant.

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- G. Following completion of the public hearing, the planning commission shall make its recommendations in accordance with the provisions of Section 17.52.030 and base its decisions on the criteria contained in this section and Section 17.52.040.
- H. Within ten (10) days of taking its action, the planning commission shall forward its recommendation to city council, which shall base its decision in regard to the rezoning application on the criteria contained in this section and Section 17.52.040.
- I. A copy of all approved applications for amendment to this title shall be filed with the city clerk within ten (10) days of their approval by city council. Official city zoning map(s), in the case of map amendments, shall be amended to reflect the rezoning(s) within thirty (30) days of an approved rezoning.
- J. All actions by the planning commission in reviewing and making recommendations on a text or map amendment, and by city council in approving or disapproving such application, shall be based in general upon the provisions of this title and specifically on the criteria contained in Section 17.52.040 and the following additional criteria:
1. That the proposed text amendment(s) would further the purpose and the goals, policies and other provisions of the Leadville comprehensive plan, as amended;
 2. That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of this title to require different densities or uses within the land in question;
 3. That the proposed map amendment is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives and policies contained within the Leadville comprehensive plan, as amended;
 4. That the proposed change of zone is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived;
 5. That there will be social, recreational, physical and/or economic benefits to the community derived by the change of zone;
 6. That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of zone, or that the applicant will upgrade and provide such where they do not exist or are under capacity;
 7. That the proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems, or seriously reducing light and air to adjacent properties;
 8. That the property cannot reasonably be developed under the existing zoning conditions;
 9. That the rezoning will not create an isolated or spot zone district unrelated to adjacent or nearby areas; and
 10. That there is a void in an area or a community need that the change of zone will fill by providing for necessary services, products or facilities especially appropriate at the location, considering available alternatives.
- K. In any petition for a text or map amendment, the petitioner shall carry the burden of demonstrating that the land in question should be rezoned or that the text should be amended and that the advantages resulting from such change would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of city council to rezone any land within the city or otherwise amend this zoning regulation for any reason consistent with the health, welfare or safety of the residents of the city.

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- L. In the event of a protest to any proposed rezoning signed by the owners .of twenty (20) percent or more of the area of the lots included in such change, of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from street frontage of such lots, such amendment shall not become effective except by the favorable vote of three-quarters of all members of city council.

(Ord. 99-8 § 1 (part): prior code § 17.27.050)