

**CITY OF LEADVILLE, COLORADO  
ORDINANCE NO. 5  
SERIES OF 2022**

**AN ORDINANCE AMENDING TITLE 17 OF THE LEADVILLE MUNICIPAL CODE  
CONCERNING THE REGULATION OF FAMILY CHILD CARE HOMES**

**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; 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 Colorado General Assembly passed House Bill 2021-1222 (“HB 1222”), which prohibits local governments from imposing certain regulations on family child care homes and requires local governments to regulate family child care homes as a residential use; and

**WHEREAS**, City Council desires to amend its land use regulations, specifically the definitions in Chapter 17.08 and the table of uses in Chapter 17.48 of the Leadville Municipal Code, to be consistent with the requirements of HB 1222; 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.** **Chapter 17.08 Amended.** Chapter 17.08 of the Leadville Municipal Code, titled “Definitions,” is hereby amended at Section 17.08.020, as follows, with added definitions to be shown in alphabetical order. Strikethrough text shows deletions and bold, underlined text shows additions:

**17.08.020 – Definitions.**

**“Child care facility” has the same meaning as “child care center,” as defined in C.R.S. § 26-6-102(5).**

**“Family child care home” has the same meaning as set forth in C.R.S. § 26-6-102(13), as further defined and regulated in the Code of Colorado Regulations.**

"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 does not include a family child care home.** A home occupation is an occupation or a profession which:

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.
  - 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.

**Section 3.** **Chapter 17.48 Amended.** Chapter 17.48 of the Leadville Municipal Code, titled “By-Right, Conditional and Prohibited Uses,” is hereby amended at Section 17.48.010 to add a row 60 to Table 1 as follows:

	R-1	R-2	TR	RC	C	TC
60. Family child care homes	R	R	R	R	R	R

**Section 4. Remaining Provisions.** Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

**Section 5. 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 6. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

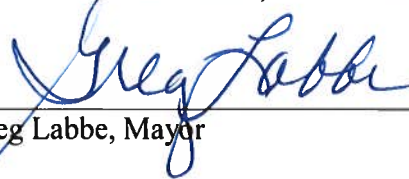
**Section 7. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part 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 8. 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 9. 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 this 3rd day of March, 2022.

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

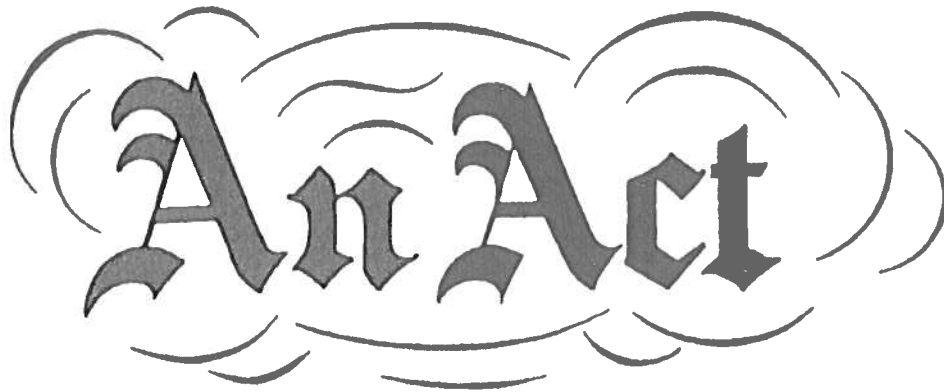
CITY OF LEADVILLE, COLORADO:

  
\_\_\_\_\_  
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 the 24<sup>th</sup> day of March, 2022.



HOUSE BILL 21-1222

BY REPRESENTATIVE(S) Valdez A. and Van Winkle, Bennett, Caraveo, Carver, Catlin, Cutter, Daugherty, Duran, Esgar, Exum, Gonzales-Gutierrez, Gray, Jackson, Kipp, Lontine, Lynch, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Pelton, Ransom, Ricks, Sandridge, Sirota, Tipper, Titone, Valdez D., Van Beber, Will, Williams, Woog, Young, Garnett, Amabile, Baisley, Bird, Boesenecker, Froelich, Geitner, McKean, Pico, Snyder, Sullivan, Woodrow; also SENATOR(S) Smallwood and Winter, Bridges, Buckner, Cooke, Danielson, Fields, Ginal, Gonzales, Hisey, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Moreno, Pettersen, Priola, Rankin, Scott, Simpson, Sonnenberg, Story, Zenzinger, Garcia.

CONCERNING ALIGNING LOCAL GOVERNING AUTHORITY REGULATIONS TO EXPAND OPPORTUNITIES TO ACCESS CHILD CARE IN FAMILY CHILD CARE HOMES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

(a) Colorado has a shortage of licensed, safe, and affordable child

care options, while at the same time there is a growing need for child care in order to bolster the economy and allow parents to work;

(b) Family child care homes provide an essential element of the child care network in both urban and rural parts of the state. In fact, in many counties, there are no licensed child care centers, making family child care homes the only option families have for licensed child care.

(c) Many parents prefer child care that is located in family homes within their neighborhood so their children can experience a home-like environment that is conducive to healthy and safe development.

(2) The general assembly further finds that:

(a) Zoning, land use development, building, and fire standards that vary across the state and that treat family child care homes differently from family residences are difficult for providers to meet, create undue hardship and barriers to entry, and negatively impact the number of providers willing and able to offer licensed child care; and

(b) The child care licensure rules promulgated by the Colorado department of human services provide rigorous protections for children's health and safety, including protective standards relating to fire and life safety, sanitation, and physical environment in family child care homes.

(3) Therefore, the general assembly declares that the regulation of family child care homes throughout the state is a matter of statewide concern and the inconsistent regulation by local governments relating to zoning, land use development, building codes, and fire and life safety hinders the ability of the state department of human services to license and inspect family child care homes and to provide accessible, safe, and affordable licensed child care options for all Colorado parents.

**SECTION 2.** In Colorado Revised Statutes, 26-6-104.5, amend (1) as follows:

**26-6-104.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure.**  
(1) (a) The department shall require any child care facility seeking licensure pursuant to section 26-6-104 to comply with any applicable

zoning AND LAND USE DEVELOPMENT regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning AND LAND USE regulations ~~shall constitute~~ CONSTITUTES grounds for the denial of a license to a facility.

(b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION TO THE CONTRARY, THE AVAILABILITY OF SAFE, AFFORDABLE, AND LICENSED FAMILY CHILD CARE HOMES IS A MATTER OF STATEWIDE CONCERN. THEREFORE, PERMITTING FRAGMENTED REGULATION AMONG JURISDICTIONS IMPEDES AND INFRINGES UPON THE DEPARTMENT'S APPROPRIATE AND CONSISTENT LICENSING AND REGULATION OF FAMILY CHILD CARE HOMES THROUGHOUT THE STATE. ACCORDINGLY, LOCAL GOVERNING AUTHORITIES SHALL TREAT FAMILY CHILD CARE HOMES AS RESIDENTIAL PROPERTY USE IN THE APPLICATION OF LOCAL REGULATIONS, INCLUDING ZONING, LAND USE DEVELOPMENT, FIRE AND LIFE SAFETY, SANITATION, AND BUILDING CODES. LOCAL GOVERNING AUTHORITIES SHALL NOT IMPOSE ANY ADDITIONAL REGULATIONS GOVERNING FAMILY CHILD CARE HOMES THAT DO NOT ALSO APPLY TO OTHER RESIDENTIAL PROPERTIES, PROVIDED THAT THE FOREGOING DOES NOT RESTRICT AN AUTHORITY'S ABILITY TO PROHIBIT, ON A CASE-BY-CASE BASIS, THE OPERATION IN IMMEDIATELY ADJACENT RESIDENCES OF TWO OR MORE LARGE FAMILY CHILD CARE HOMES, AS THAT TERM IS DEFINED BY RULES BY THE DEPARTMENT THAT GOVERNS THE OPERATION OF FAMILY CHILD CARE HOMES, OR TO MANAGE THE FLOW OF TRAFFIC AND PARKING RELATED TO ADJACENT LARGE FAMILY CHILD CARE HOMES. RESIDENTIAL USE OF PROPERTY FOR ZONING PURPOSES INCLUDES ALL FORMS OF RESIDENTIAL ZONING AND, SPECIFICALLY, ALTHOUGH NOT EXCLUSIVELY, SINGLE-FAMILY RESIDENTIAL ZONING.

**SECTION 3.** In Colorado Revised Statutes, 26-6-106, **amend** (1)(a) as follows:

**26-6-106. Standards for facilities and agencies - rules.**  
(1) (a) The department shall prescribe and publish standards for licensing. ~~Such~~ THE standards ~~shall~~ MUST be applicable to the various types of facilities and agencies for child care regulated and licensed by this part 1; except that the department shall prescribe and publish separate standards for the licensing of child placement agencies operating for the purpose of adoptive placement and adoption-related services. The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing ~~such standards.~~ ~~Such~~

~~standards shall~~ THE STANDARDS, INCLUDING THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PUBLIC SAFETY AND COUNCILS AND ASSOCIATIONS REPRESENTING FIRE MARSHALS AND BUILDING CODE OFFICIALS IN THE PROMULGATION OF ANY RULES RELATED TO ADEQUATE FIRE PROTECTION AND PREVENTION, AS ALLOWED IN SUBSECTION (2)(e) OF THIS SECTION, IN A FAMILY CHILD CARE HOME. THE STANDARDS MUST be established by rules promulgated by the state board of human services and ~~shall~~ be issued, and published, AND BECOME EFFECTIVE only in conformity with the provisions and procedures specified in article 4 of title 24. C.R.S., and ~~shall become effective only as provided in said article.~~

**SECTION 4. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in



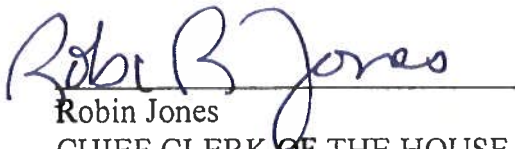
November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.




Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

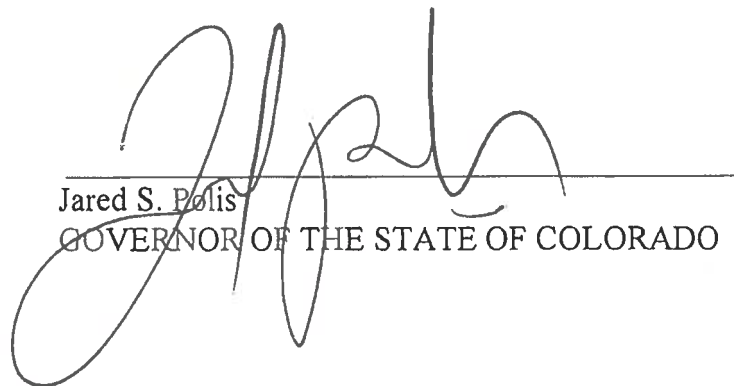


Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED June 7, 2021 at 12:40pm  
(Date and Time)



Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO