

CITY OF LEADVILLE, COLORADO

Ordinance 06

Series of 2016

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEADVILLE,
COLORADO REPEALING AND RE-ENACTING CHAPTER 17.08, 17.48 AND 17.50
TITLE 17 AND CHAPTER 6.04 OF TITLE 6 OF THE CITY OF LEADVILLE
MUNICIPAL CODE CONCERNING THE HARBORING OF CHICKENS AND
ADMINISTRATIVE PERMITTING PROCESS**

WHEREAS, the City of Leadville (the "City") is a statutory municipality incorporated and organized pursuant to the provisions of Section 31-2-101, *et seq.*, C.R.S.; and

WHEREAS, Section 29-20-104, C.R.S., grants municipalities the authority to plan for and regulate the planned and orderly use of land on the basis of the impact thereof on the community; and

WHEREAS, the City is authorized pursuant to Section 31-15-401, C.R.S., to exercise its police powers to promote and protect the health, safety, and welfare of the community and its inhabitants; and

WHEREAS, the City Council has adopted regulations codified in Chapter(s) 17.08, 17.48, a new code for proposed chapter 17.50, and section 6.04 of Chapter 6 of the Municipal Code ("Zoning Code" and "Animals"); and

WHEREAS, the Leadville Planning Commission has recommended to City Council that the harboring of Chickens be changed from a conditional use permit to an administrative permitting process and specific proposed language for administrative permitting requirements; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this ordinance concerning the regulation

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

SECTION 1. Section 17.08, 17.48, and 17.50 of Title 17 and Section 6.04 of Title 6 of the Municipal Code is hereby amended to read in full as follows, with changes shown in underline:

Title 17 ZONING*

Chapters:

Chapter 17.08 - DEFINITIONS

Chapter 17.48 - BY-RIGHT, CONDITIONAL AND PROHIBITED USES

Chapter 17.50- ADMINISTRATIVE PERMITS

Chapter 17.08 DEFINITIONS

Sections:

17.08.010 Introduction.

17.08.020 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.

(Ord. 06-2 § 1; Ord. 99-8 § 1 (part): prior code § 17.31.010)

17.08.020 Definitions.

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

"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 be located on the same parcel as the principal building.

"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 20 (20) feet of the outer boundary or perimeter of the property in question.

"Administrative permit" is a permit issued by the building 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.

Chapter 17.48 BY-RIGHT, CONDITIONAL AND PROHIBITED USES

Sections:

[17.48.010 Designated.](#)

The table on the following pages indicates which land uses are allowed by right, which are conditional uses (that is, uses which the city may allow following detailed review) 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 = Use allowed by right

P = Use prohibited

A = Administrative conditional use/permit required

C = Conditional use/permit required as defined in Chapter 17.52

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

City of Leadville Zoning District	R-1	R-2	TR	RC	C	TC
57. Harboring of Chickens	A	A	A	P	A	A

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

(Ord. 03-17 §§ 3 and 4; Ord. 03-15 §§ 2 and 8; Ord. 03-4 §§ 2, 3; Ord. 03-1 § 1; Ord. 99-8 § 1 (part): prior code § 17.13)

(Ord. No. 20009-3, § 3, 9-1-09; Ord. No. 2010-2, § 2, 5-18-10; Ord. No. 2010-5, § 2, 8-17-10; Ord. No. 2013-19, § 2, 1-7-14; Ord. No. 2014-4, § 1, 5-6-14; Ord. No. 2014-5, §§ 1, 2, 8-5-14)

Chapter 17.50 ADMINISTRATIVE PERMITS

17.50.010 Introduction.

17.50.020 Submittal requirements.

17.50.030 Procedures for review and action on administrative permit applications.

17.50.040 Criteria for action on an administrative permit application.

17.50.050 Review and revocation of an administrative permit.

17.50.060 Fee provision for administrative permits.

17.50.070 Appeals Procedure

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, specified by the planning official or until the land use changes or is terminated, whichever occurs first. 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.

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 criteria points; and (d) submission of site plan.

The appropriate filing fees (see Section 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. 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, 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 20 ft. 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 stationery and signed by the planning official shall be considered to be a formal permit authorizing an administrative permit under this chapter.
- F. An administrative permit will be revoked if the use has not been established within two years of the approval.

17.50.040 Criteria for 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:

- 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.

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. Upon review of the permit provisions, the planning official may specify time periods 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.

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.

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 200 ft. 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.

Title 6 ANIMALS

Chapter 6.04 ANIMAL CONTROL

[6.04.020 Livestock or fowl.](#)

6.04.020 Livestock or fowl.

- A. It is unlawful for any person, owner, or keeper to harbor livestock or fowl within the city without approval and written authorization of the planning official.
- B. It is unlawful for any person, owner, or keeper to harbor chickens within the city without an approved administrative permit issued by planning official in accordance with Chapter 17.50 of this Code.
- C. Any administrative permit to allow the keeping or harboring of chickens shall be issued only upon compliance with the following criteria and restrictions:
- Application for an administrative permit hereunder must be made by or approved by the owner of the real property upon which the chickens will be kept or harbored.
 - The administrative permit shall be revoked after three substantiated complaints are received by the city.
 - The permittee must adhere to all federal and state laws and regulations concerning all avian diseases.

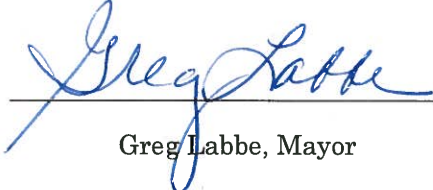
(Ord. 00-17 § 1 (part): prior code § 6.04.020)

(Ord. No. 2009-4, § 4, 9-1-09)


INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED IN FULL ON FIRST READING on the 3rd day of May, 2016 by a vote of 6 in favor, 0 against, 0 abstaining, 1 absent and 0 vacant

CITY OF LEADVILLE, COLORADO

ATTEST:



Greg Labbe, Mayor



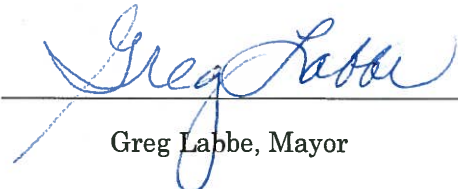
Bethany Maher, City Clerk

Published in full in *The Herald Democrat*, a newspaper of general circulation in Leadville, Colorado, on the 12 day of May, 2016.


PASSED AND ADOPTED ON SECOND READING on the 05 day of July, 2016 by a vote of 5 in favor, 1 against, 0 abstaining, 1 absent and 0 vacant.

CITY OF LEADVILLE, COLORADO

ATTEST:



Greg Labbe, Mayor



Bethany Maher, City Clerk

