



**PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT**

455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 369-8250

Agenda Item No. 13

TO: Town Council

FROM: Michelle Haynes, Planning and Development Services Director & Jim Mahoney, Attorney

FOR: Meeting of September 19, 2019

DATE: September 9, 2019

RE: Consideration of first reading of an Ordinance regarding Community Development Code (CDC) amendments to clarify zoning designation definitions including but not limited to efficiency lodge, hotel efficiency and hotel zoning designations; to include the definition of short term accommodations at CDC Chapter 17.8 Definitions; and to amend the density transfer and rezone section of the CDC to add criteria to rezone and density transfer applications when rezoning from efficiency lodge, hotel or hotel efficiency to lodge zoning designations at CDC Section 17.4.9 Rezoning Process

BACKGROUND

The Town Council has held three work sessions in 2019 regarding efficiency lodge zoning designations in the Mountain Village. Those Town Council meeting dates were [March 21, 2019](#), [May 16, 2019](#) and [August 15, 2019](#). Town Council directed staff to bring forward a Community Development Code amendment consistent with the direction given at the above referenced meetings. The Design Review Board provided a unanimous recommendation to Town Council at their September 5, 2019 meeting. There has been one change to the amendment since the September 5, 2019 DRB meeting which is explained below.

DIRECTION

At the August 15, 2019 work session, Town Council directed staff to bring forward an amendment to the CDC based on the following direction:

- a. Remove the word “primarily” from the definition of hotel, hotel efficiency and efficiency lodge zoning designations.
- b. Add a criterion to the rezone section of the CDC if a hotel, hotel efficiency or efficiency lodge applies for a rezone to a lodge unit.
- c. Define Short-Term Accommodations in the CDC so that it is clear what it means.
- d. Clarify the existing definitions in the CDC related to zoning designations.

On additional change has been added to allow for an owner of a unit subject to short term accommodations limitations which has such unit in a rental pool to use the unit for up to 90 non-consecutive days in a calendar year.

ATTACHMENT

1. Exhibit A. Ordinance with redline attached CDC amendment.

The proposed CDC amendment is exhibit A to the ordinance. Added language is blue and red and underlined. Strike through language is shown and proposed to be removed and/or replaced.

INTENT

In summary the proposed CDC amendment achieves the following:

Additional Rezone Criteria.

The additional criteria ensure that efficiency lodge, hotel or hotel efficiency lodge units in properties which function similar to hotels cannot be rezoned to lodge units which are not subject to use as short term accommodations.

Short Term Accommodations Definition.

While the CDC did not define short term lodging, short term lodging was defined in the Mountain Village Municipal Code of which the CDC is a part of. Adding this definition comports with definitions elsewhere in the Mountain Village municipal code to bring further clarity and understanding to the allowed uses of hotel, efficiency lodge and hotel efficiency zoning designations.

Efficiency Lodge, Hotel and Hotel Efficiency Definitions.

Council directed that the word “primarily” be removed from Efficiency Lodge, Hotel and Hotel Efficiency definitions to provide clarity to such zoning designations that they are to be used for short term accommodation use and not for other uses such as residences. Additionally, the term “allows for” has been changed to “means” to avoid ambiguity.

PROPOSED MOTION

Staff has provided a CDC amendment consistent with the direction given by Town Council. See recommended motion below:

I move to approve on first reading, an amendment to the CDC at Section 17.4.9 Rezoning Process and Section 17.8 Definitions as set forth in exhibit a, and to direct the Town Clerk to set a second reading and public hearing for October 17, 2019 with the findings as set forth in the staff memo dated September 12, 2019 and made at the hearing September 19, 2019.

This motion is based on the evidence and testimony provided at a public hearing held on September 19, 2019 with notice of such hearing as required by the Community Development Code.

ORDINANCE NO. 2019-__

AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE (CDC) AT SECTIONS 17.8 DEFINITIONS AND 17.4.9 REZONING PROCESS TO CLARIFY SHORT TERM ACCOMMODATION AND ZONING DESIGNATIONS

RECITALS

- A. The Town of Mountain Village (the “Town”) is a legally created, established, organized and existing Colorado municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado (the “Constitution”) and the Home Rule Charter of the Town (the “Charter”).
- B. Pursuant to the Constitution, the Charter, the Colorado Revised Statutes and the common law, the Town has the authority to regulate the use and development of land and to adopt ordinances and regulations in furtherance thereof.
- C. The Town Council may amend the CDC, from time to time.
- D. The Design Review Board provided a unanimous recommendation to Town Council regarding the CDC amendment.
- E. Town Council held a first reading of an ordinance on September 19, 2019.
- F. The Town Council held a public hearing and second reading on October 17, 2019.
- G. The CDC amendments clarify the existing CDC language by: (i) replacing ambiguous language with clear language; (ii) adding a definition of short term accommodation consistent with Town Municipal Code definitions of short term accommodations for lodging tax purposes; and adding rezone criteria for hotel, hotel efficiency and efficiency lodge zoning designation applications to rezone to lodge zoning designation.
- H. The Town Council finds that the CDC amendments do not change the allowed uses of the zoning designations but provide clarity to the allowed uses of each zoning designation.
- I. The CDC amendment is consistent with the Mountain Village Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO AS FOLLOWS:

Section 1. Amendment of Community Development Code

- A. The Town of Mountain Village Community Development Code, sections 17.8 and 17.4.9 are hereby amended and replaced as set forth in Exhibit A which is attached hereto and incorporated herein.
- B. The Planning Division is directed to codify the amendments in Exhibit A into the CDC.
- C. The Planning Division may correct typographical and formatting errors in the amendments or the adopted CDC.

Section 2. Ordinance Effect

- D. This Ordinance shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.
- E. All ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 3. Severability

The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of this Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Ordinance.

Section 4. Effective Date

This Ordinance shall become effective on _____, 2019.

Section 5. Public Hearing

A public hearing on this Ordinance was held on the 17th of October, 2019 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 19th of September, 2019

TOWN OF MOUNTAIN VILLAGE:

**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: Laila Benitez, Mayor

ATTEST:

Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 17th of October, 2019.

TOWN OF MOUNTAIN VILLAGE:

**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: Laila Benitez, Mayor

ATTEST:

Jackie Kennefick, Town Clerk

Approved As To Form:

Jim Mahoney, Assistant Town Attorney

I, Jackie Kennefick, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. _____ ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on _____, 2019, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Patrick Berry				
Natalie Binder				
Peter Dupre				
Jack Gilbride				
Marti Prohaska				

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on _____, 2019 in accordance with Section 5.2b of the Town of Mountain Village Home Rule.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on October 17, 2019. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Patrick Berry				
Natalie Binder				
Peter Dupre				
Jack Gilbride				
Marti Prohaska				

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this _____ day of _____, 2019.

Jackie Kennefick, Town Clerk

(SEAL)

2. **Step 2: Rezoning Development Application.** Rezoning development applications shall be processed as class 4 applications.

Criteria for Decision

3. The following criteria shall be met for the review authority to approve a rezoning development application:
 - a. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan;
 - b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
 - c. The proposed rezoning meets the Comprehensive Plan project standards;
 - d. The proposed rezoning is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources;
 - e. The proposed rezoning is justified because there is an error in the current zoning, there have been changes in conditions in the vicinity or there are specific policies in the Comprehensive Plan that contemplate the rezoning;
 - f. Adequate public facilities and services are available to serve the intended land uses;
 - g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
 - h. The proposed rezoning meets all applicable Town regulations and standards.
4. The following additional criteria shall be met for the review authority to approve a rezoning application when an efficiency lodge, hotel or hotel efficiency lodge is rezoned to a lodge zoning designation:
 - a. The property does not have onsite property management.
 - h.b. The property does not have hotel-like amenities (including but not limited to a front desk, spa facilities, bar, restaurant or conference space).
5. It shall be the burden of the applicant to demonstrate that submittal material and the proposed development substantially comply with the rezoning review criteria.

D. General Standards

1. **Ordinance Required for Zone District Amendment.** Any change to the zone district, on a lot shall be by duly adopted ordinance.
 - a. All ordinances for a rezoning shall include a map reflecting the new zoning and associated boundaries.
 - b. A rezoning shall not become effective until thirty (30) days following the adoption of the rezoning ordinance.
2. **Ordinance Required for Change in Density or Zoning Designation.** Any change to the density or zoning designation assigned to a lot shall be by duly adopted ordinance that shall be recorded in the records of the San Miguel County Clerk and Recorder.
 - a. To the extent multiple recorded resolutions and/or ordinances exist with respect to the zoning designation of a lot, the most recently recorded resolution or ordinance shall prevail and shall have the effect of voiding all prior recorded

Sandwich Board Signs: Freestanding signs with signage on two (2) sides.

Service Commercial: Any establishment of which the primary activity is the provision of personal or professional service as opposed to products, such as attorney services, surveying services, title services, real estate services or beauty services.

Short Term Accommodation: Means a building or condominium unit within a building may only be rented, leased or occupied for a period of less than 30 (thirty) consecutive days by any occupant (that is, any length of time between 1 and 29 consecutive days). Any units limited to use by the CDC as short term accommodations may be used for up to ninety (90) non-consecutive days per calendar year provided that the owner of such unit has the unit in a rental management pool for short term accommodations.

Sign: Any object, device, display, structure or part thereof situated outdoors or indoors, which is used to advertise, identify, inform, display, direct or attract attention to an object, person, institution, organization, business, religious group, product service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

Off-premise Signs: Signs advertising goods, products or services that are not located or sold on the lot or premise on which the sign is located except for signs that project into a plaza area, directory signs and other off-premise signs as allowed by the Sign Regulations.

Sign Area; The area of the entire face of a sign shall be measured in determining sign area, including but not limited to the advertising surface and any framing trim or molding. On a two-sided sign where the faces are parallel to each other and separated by less than one (1) foot, only one (1) face is counted in calculating the sign area.

Single-Family Condominium Unit: See zoning designation and dwelling unit definitions.

Single-Family Dwelling Unit: See zoning designation and dwelling unit definitions.

Site: The entire area included in the legal description of the land on which a development activity is proposed in a development application.

Site Coverage: The total horizontal area of any building, carport, porte-cochere or arcade and shall also include walkways, roof overhangs, eaves, exterior stairs, decks, covered porch, terraces and patios. Such horizontal measurement shall be from the driplines of buildings and from the exterior surface of the total wall assembly.

Site-Specific Development Plan: The final approved development application plans for a development where (a) a development permit has been issued and no further development approvals are required except for a building permit as required by the Building Codes; and (b) an applicant has also concurrently sought and obtained a vested property right pursuant to the vested property rights process as set forth in Chapter 4.

Site-Specific PUD Process or SPUD: The process to create a site-specific PUD as set forth in the PUD Regulations.

Sketch PUD: The second step in the creation of a site-specific PUD (SPUD) as set forth in the PUD Regulations.

Workforce Housing Requirements: The regulations applicable to workforce housing as required by the CDC as set forth in Chapter 3.

Workforce Housing Bonus Density: Workforce housing density created after the incorporation of the Town that does not count towards the Density Limitation.

Workforce Housing Restriction or "WHR" or Employee Housing Restriction "EHR:" A Town ordinance or resolution adopted separately from the CDC that limits the use and occupancy of any individual dwelling unit or lot zoned employee apartment, employee condominium, employee single-family or employee dorm to an employee. New WHR applied by the Town after the effective date shall be consistent with the requirements of the employee housing policies of the CDC and the Comprehensive Plan, and such restriction shall not be removed in the event of a foreclosure.

Workforce Housing Unit: Includes employee apartments, employee dorms, employee condominiums and employee single-family that are subject to the WHR.

Yard: An open space at grade between a building and an adjoining lot, right-of-way, access tract or access easement. Yard is defined as follows:

Yard, Front: An open space extending across the full width of a lot extending from the front dripline of a building to the lot line.

Yard, Side: An open space on either side of a building extending to the front yard, rear yard and the adjoining lot lines.

Yard, Rear: An open space extending across the full width of a lot extending from the back dripline of a building to the rear lot line.

Where a lot has frontage on multiple sides of a lot, the Planning Division shall work with the developer on determining the applicable yards with front yards abutting against the frontages in most situations.

Zoning: The zoning designation assigned to a lot.

Zoning Designation: The specific type of uses permitted on a lot by lot basis as provided for in Chapter 3. Zoning designations are defined as follows:

Commercial: A zoning designation that allows for a broad range of commercial operations and services where there is pecuniary gain, such as but not limited to the following: sale of food, beverages, dry goods, furniture, appliances, bakery, automotive and vehicular equipment, hardware, sporting goods, clothing, building materials, plant materials and garden supplies, equipment rental and personal services establishments including banks, attorneys, barber and beauty shops, day care, private schools, surveyors, laundry or dry cleaning pick up and drop locations, laundromats, photo studios, shoe repair shops, tailor shops, vehicular rental shops, offices, and arts and crafts studios.

Condominium: A zoning designation that ~~allows for~~means multi-family dwellings dwelling located in condominium community.

Efficiency Lodge: A zoning designation that ~~allows for~~means a habitable, one (1)-room space with separate bath and limited kitchen facilities used primarily for ~~S~~short-Tterm Accommodations. Limited kitchen facilities may include a sink, microwave, two-element

burner, and six (6) cubic foot (maximum) refrigerator trash compactor and garbage disposal. These units may be in a condominium community.

Employee Apartment: A zoning designation that ~~allows for~~means employee apartment multi-family dwelling units that cannot be separately subdivided or conveyed as individual condominium units the occupancy of which is limited to employees and are encumbered by the workforce housing restriction.

Employee Condominium: A zoning designation that ~~allows for~~means -employee condominium multi-family dwellings, the occupancy of which is limited to employees and is encumbered by the workforce housing restriction within a condominium community

Employee Dorm: A zoning designation that ~~allows for~~means employee dorm units that are within a building with individual sleeping rooms that provide sleeping and living accommodations with shared kitchen and recreational facilities and that cannot be separately subdivided or conveyed as individual units, the occupancy of which is limited to employees that are encumbered by the workforce housing restriction.

Employee Single-Family: A zoning designation that ~~allows for~~means -single-family dwelling units, the occupancy of which is limited to employees and is encumbered by the workforce housing restriction.

~~**Efficiency Lodge:** A zoning designation that allows for a habitable, one room space with separate bath and limited kitchen facilities used primarily for short-term accommodations. Limited kitchen facilities may include a sink, microwave, two-element burner, six (6) cubic foot (maximum) refrigerator, trash compactor and garbage disposal. These units may be in a condominium community.~~

Hotel: A zoning designation that ~~allows for a one~~means a habitable (1) room space with separate bath and limited kitchen facilities used ~~primarily~~ for ~~S~~short ~~T~~-term ~~A~~accommodations. Limited kitchen facilities may include a sink, microwave, two-element burner, and a six (6) cubic foot (maximum) refrigerator. These units may be in a condominium community.

Hotel Efficiency: A zoning designation that ~~allows for a~~means a habitable two (2) room space, or one (1) room plus a mezzanine, with separate bath and limited kitchen facilities used ~~primarily~~ for ~~S~~short ~~T~~-term ~~a~~accommodations. Limited kitchen facilities may include a sink, microwave, two-element burner and a six (6) cubic foot (maximum) refrigerator. These units may be in a condominium community.

Industrial: A legal, conforming zoning designation that allows for light manufacturing and assembly, including sheet metal fabrication and wood work; building and landscaping contractors and special trade contractors such as cabinetry, carpet and flooring, insulation, roofing, mechanical, plumbing and heating; wholesale sales and distributors; welding and machine shops; food service distribution; cleaning and janitorial supply; bulk storage and distribution facilities for fuels, explosives, pesticides, solvents, corrosives, paving, excavation, hauling and other contracting services involving heavy equipment, maintenance and repair of trucks and heavy equipment, electric utility substation, water treatment plant, water storage and distribution facilities, snow making facilities, ski area maintenance operations, cable TV operations and other service facilities. A lot shall not be re-zoned to include this zoning designation due to the Comprehensive Plan's envisioned phase out of industrial uses from the town over time. Lots with

this zoning designation prior to the effective date of the CDC are considered legal, conforming uses.

Lodge: A zoning designation that ~~allows for~~means a two (2) room space plus a mezzanine with up to two separate baths and a full kitchen. These units may be in a condominium community.

Non-Subdivideable Duplex: A legal, non-conforming zoning designation that ~~allows for~~means construction of two (2) dwelling units as provided for in the Zoning Regulations and the single-family zone district. A lot may not be re-zoned to include this zoning designation in order to ensure the integrity of the overall single-family zone district. Lots with this zoning designation prior to the effective date of the CDC are considered legal, non-conforming uses.

Parking: A zoning designation ~~that allows for~~that means for parking uses, including but not limited to the following: private or public vehicle parking structures or surface parking, private office and commercial uses that are transportation, tourist or town-related and that are accessory to a parking structure, general access, utility installation and maintenance, drainage and transportation systems and all buildings and incidental facilities related to the use. Notwithstanding the above, no use is allowed that is incompatible with the general resort nature of the town.

Single-Family: A zoning designation that ~~allows for~~means construction of a building containing one (1) dwelling unit and one (1) accessory dwelling unit (accessory dwelling unit can also be detached per accessory dwelling unit requirements) as provided for in the zoning regulations.

Single-Family Common Interest Community: A zoning designation that ~~allows for~~means a detached building containing only one (1) single-family dwelling unit that is located within a common interest community with at least three (3) or more single-family dwelling units in such community.

Single-Family Condominium: A zoning designation that ~~allows for~~means a detached building containing only one (1) dwelling unit that is located within a condominium community with at least three (3) or more single-family dwelling units located on a lot.

Zone District: A specifically delineated area or district that establishes the base zoning areas for the town with specific zone districts and associated Zoning Regulations specified in Chapter 3 and the CDC.

Zoning Regulations: The Zoning Regulations set forth in Chapter 3 of this CDC and associated supplementary regulations established in Chapter 6.