

**TOWN OF MOUNTAIN VILLAGE
LAND USE ORDINANCE
Revised March 29, 2005
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ARTICLE 1 PURPOSE, APPLICABILITY, ENFORCEMENT AND PENALTIES

This Ordinance shall be known as the Town of Mountain Village (Town) Land Use Ordinance (LUO).

This Ordinance is established to achieve the following:

- Provide a clear, consistent, predictable and efficient land Development Review Process;
- Promote public health, safety and welfare;
- Preserve Open Space and protect the environment;
- Enhance the natural beauty of the Town's surroundings;
- Foster a sense of community;
- Promote good civic design and Development;
- Create and preserve an attractive and functional community;
- Enhance the natural beauty of the Town's surroundings;
- Promote the economic vitality of the Town;
- Promote the resort nature and tourism trade of the Town;
- Ensure that uses and structures enhance their sites and area compatible with the natural beauty of the Town's setting and its critical natural resources; and
- Protect property values within the Town.

SECTION 1-1 AUTHORITY

1-101 ORDINANCE ENACTION

This Ordinance is hereby enacted by the Town Council under the authority granted in the Town's Home Rule Charter, as amended and restated ("Charter"), and by the State of Colorado under the Home Rule Powers granted in Article XX of the Colorado Constitution.

1-101-1 DESIGN REGULATIONS INCORPORATED

The Design Regulations adopted by the Design Review Board and the Town, as such regulations may be amended from time to time, are hereby incorporated into this Ordinance.

A violation of the Design Regulations shall constitute a violation of this Ordinance and shall be subject to the penalty set forth in Section 2-6.

1-102 DESIGN REVIEW BOARD BYLAWS

1-102-1 ESTABLISHMENT AND DUTIES

The Design Review Board (“DRB”) bylaws are hereby established as provided by Colorado Revised Statutes (“C.R.S.”) 31-23-202—204 for the incorporated area of the Town of Mountain Village Colorado. The DRB shall have all the duties and responsibilities as outlined in the Mountain Village Land Use Ordinance (“LUO”) and the Mountain Village Design Guidelines (“Design Guidelines”). The improvement or Alteration of any land or Open Space, exterior design of all new Development and all exterior modifications to existing Development, shall be subject to design review as specified in the Design Regulations. Pursuant to the Charter, the DRB, in addition to its architectural review function, shall serve as a planning and zoning advisory board as provided for in C.R.S. 31-23, Part II, except where the Town Council is the planning commission pursuant to the Town Charter, the LUO and the Design Regulations. The DRB shall review all amendments to the Mountain Village Land Use Ordinance and Design Regulations pursuant to Article 1, zoning Applications pursuant to Article 4, Variances pursuant to Article 5 and make recommendations thereon to the Town Council as provided for in the LUO.

1-102-2 DRB MEMBERS

1-102-2-1 Appointment. Seven (7) regular members shall be appointed by the Mountain Village Town Council. The maximum total term in office shall be twelve consecutive years, subject to reappointment by the Town Council pursuant to Section 1-102-2-3 below. The Town Charter requires that 3 members are appointed in odd numbered years and 4 members appointed in even numbered years. Up to two (2) alternate members may be appointed by the Town Council for two year terms. Alternate members shall only vote when one of the seven (7) regular members cannot vote due to a conflict of interest or when a regular member is absent from a meeting. Any appointed alternate DRB members should actively participate in the discussion of agenda items, site visits and other DRB activity.

1-102-2-2 Qualifications and Terms. The Council shall strive to appoint at least three or more members of the DRB that are property owners or Residents of Mountain Village, but residency is not required to be a DRB member. DRB members are appointed for two (2) year terms by the Town Council. The term for a DRB member shall be for two (2) years.

1-102-2-3 Vacancies. Vacancies that may occur on the DRB shall be filled by appointment of the Town Council pursuant to the following procedures:

- A. **Solicitation for DRB Members:** When a vacancy occurs or when terms are expiring, the Planning Department shall advertise the vacancy and selection process at least one time in a newspaper of general circulation.
- B. **Advising Applicants During Selection Process:** It shall be the responsibility of the Planning Department to advise DRB applicants of the time commitment required for the review of staff reports and regular attendance at meetings. Applicants shall indicate their ability to meet this commitment prior to consideration of their candidacy by the Council.
- C. **Interviews:** If an existing DRB member does not want to be re-appointed resigns, or if a member is removed by the Town Council as provided for in Section 1-102-2-5, the DRB shall interview all applicants for such vacancy at a regular meeting, special meeting or

worksession. The DRB shall forward a recommendation on the appointment to the Town Council. The Town Council may interview any or all applicants prior to making an appointment to the DRB. If an existing DRB member is an applicant for a vacancy, only the Town Council will interview for such a vacancy rather than the DRB.

- D. **Town Council Appointment of Members:** The Town Council shall make an appointment as soon as practicable after the close of the application period. In making appointments to the DRB, the Town Council shall strive to select individuals with varying professional and civic backgrounds. The Town Council shall select DRB members and provide for a DRB composition that represents a cross section of interests, skill sets and professions. The Town Council shall accordingly strive to appoint DRB members from the following groups: architects, laypersons-residents, merchants, hoteliers-property managers, landscape architects, civil engineers, and contractors. The Town Council shall also consider DRB members based on willingness to be active participants; a desire to fulfill DRB duties, and the ability to positively interact with fellow DRB members, DRB staff, the Council, Applicants and the public in a thoughtful and respectful manner.
- E. **Annual Review of Membership:** All DRB members whose terms are expiring shall be notified prior to the expiration of the term and invited to re-apply. All terms which are expiring shall be advertised and appointments made pursuant to this Section.
- F. **Oath of Office:** Prior to appointment, each candidate shall take the Oath of Office for a DRB member.

1-102-2-4 Compensation. DRB members shall serve without compensation, except reasonable out-of-pocket expenses provided the Town has budgeted for said expenses.

1-102-2-5 Removal of DRB Members. DRB members serve at the pleasure of the Town Council and may be removed from office upon a majority vote of the Town Council. Any DRB member may be removed by the Town Council, upon recommendation by the DRB, for failure to attend three (3) consecutive meetings per year without justification or for failure to carry out the duties of a DRB member.

1-102-2-6 Election of Officers. The DRB shall elect from its membership a chairperson and vice chairperson whose term of office in such capacity shall be for one (1) year with eligibility for re-election. Officers shall be elected annually by majority hand vote of the DRB at the first regular meeting of each calendar year.

1-102-2-7 Chairperson. The chairperson shall preside at all meetings and shall be the chief executive officer of the board.

1-102-2-8 Vice Chairperson. The vice-chairperson shall act as chairperson during absences of the chairperson. The vice-chairperson shall serve as chairperson, if that position becomes vacant, until such time as the DRB shall elect a new chairperson.

1-102-3 SUBCOMMITTEES

DRB is authorized to request the Town Council appoint one (1) or more subcommittees to examine particular issues, to conduct research and develop recommendations on matters of concern to the DRB, or assist the DRB in carrying out its duties. The purpose of such committees shall be to encourage greater involvement of citizens in the planning process, and to utilize individuals having special expertise and an interest in their community. Work

requested of any committee shall be performed by its members, and shall not involve support from Town staff unless such support is approved by the Town Council.

1-102-4 MEETINGS

Regular meetings of the DRB shall be held on the fourth Thursday of each month. The DRB may hold special meetings in addition to regularly scheduled meetings, as circumstances require as determined by the Director of Community Development. The date, time and agenda of special meetings will be advertised to the public by publication of the agenda. Work sessions or site inspections may be held from time to time. The time and location of work sessions and site inspections shall be set by agreement of a majority of the members in a regular meeting, or, in the absence of such agreement, by the chairperson, in consultation with Staff, and shall be advertised to the public. No official action shall be taken in work sessions or on site inspections.

1-102-5 CONDUCT OF BUSINESS

1-102-5-1 Quorum. A simple majority of DRB members shall constitute a quorum. No business shall be transacted by the DRB unless a quorum is established. A quorum is not necessary for the DRB to conduct work sessions, continue agenda items or for discussion items. Action may be taken by a majority of those present to continue an item. If the DRB cannot maintain a quorum due to a member(s) inability to participate due to a conflict of interest or the need for member(s) to leave the meeting, any quasi-judicial agenda item shall be continued to the next available meeting.

1-102-5-2 Voting Requirements. Motions of the DRB shall be approved and passed upon the affirmative vote of a majority of the DRB members present at a meeting of the DRB at which a quorum is present. In cases of a tie vote, the decision shall be deemed a denial of the motion before the DRB. Other motions can be made on an application, and if a DRB still has a tie vote after three (3) motions, the tie vote will be considered a denial of the application before a DRB. Proxies cannot be used for any purpose. A DRB member may vote on minutes for a meeting a member did not attend. A member may not vote on a project which has been heard at a series of meetings, where that member has not been present at all meetings where the project was considered unless that member has listened to the tape recording of the meetings(s) from which they were absent.

1-102-5-3 Record. The DRB Staff shall keep and maintain a public record of its proceedings.

1-102-6 CONFLICT OF INTEREST

Every member of the DRB shall be governed by the Town's Code of Ethics as may be adopted and amended from time to time by the Town Council.

1-102-7 DRB-TOWN COUNCIL STAFF

The Town shall provide necessary staff support and supplies to the DRB within the amounts

annually budgeted and appropriated for such staff and expenses, and pay all budgeted and approved expenses incurred. Staff is responsible for (1) processing applications in accordance with the requirements of the LUO, Design Guidelines and Municipal Code; (2) preparing DRB agendas; (3) preparing Staff memos for the DRB and providing a recommendation on an application to the DRB and the Town Council; (4) reviewing and approving plans as allowed by the LUO and Design Guidelines; (5) issuing permits as provided for in the LUO and Design Guidelines; (6) enforcing the provisions of the LUO and the Design Guidelines as resources and priorities allow; (7) educating Applicants, the DRB, the Council and the public on the requirements of the LUO, Design Guidelines, the Mountain Village Comprehensive Plan and evolving techniques and laws concerning the planning field; (8) implementing the Comprehensive Plan and overall long-range work program as directed by the Town Council; (9) assisting other Town departments in fulfilling the Town's responsibilities and mission, with the goal of creating efficiencies wherever possible; (10) complying with professional planning ethics and the Town's adopted Ethic's Code; and (11) other duties and responsibilities as provided for in the LUO and Design Guidelines.

1-103 AMENDMENTS AND SUPPLEMENTS TO LAND USE ORDINANCE AND DESIGN REGULATIONS

Prior to submission to the Town Council, all proposed amendments, supplements, changes or repeals of this Ordinance or the Design Regulations shall first be submitted to the Design Review Board. At a regular or special meeting, the Design Review Board shall review all such proposed amendments, supplements, changes, or repeals and make written recommendations thereon to the Town Council.

1-104 TOWN COUNCIL

The Town Council shall approve or deny all zoning Applications taking into consideration the recommendations of the DRB.

1-105 ADMINISTRATION

This ordinance and the Design Regulations shall be administered by Staff, who shall be responsible for processing zoning Applications and assisting the DRB in determining each Application's compliance with the provisions of this LUO, the Design Regulations and any other applicable ordinances and regulations of the Town.

ARTICLE 2 DEFINITIONS

SECTION 2-1 PURPOSE

The purpose of this Article is to define words, terms and phrases contained within the Land Use Ordinance and Design Regulations.

SECTION 2-2 WORD USAGE

The provisions of this Land Use Ordinance shall be observed and applied when interpreting this Land Use Ordinance and the Design Regulations, except when the context clearly requires otherwise.

- A. The word “shall” is mandatory.
- B. The word “may” is permissive.
- C. Words used in one tense or form shall include other tenses and derivative forms. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- D. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- E. The time within which an act is to be done shall be computed by excluding the first and including the last day: If the last day is a Saturday, Sunday or legal holiday observed by the Town, that day shall be excluded. Unless otherwise stated in this Land Use Ordinance, “day” means a working week day.
- F. The end of a day shall be 5:00 P.M. local time.
- G. The word "week" shall mean seven (7) days. The word "month" shall mean a calendar month. The word "year" shall mean a calendar year.
- H. The word "person" includes individuals, firms, corporations, associations, trusts, and any other similar entities.
- I. The word "County" shall mean San Miguel County.
- J. The word "Town" shall mean the Town of Mountain Village.
- K. The word "Attorney" or "Town Attorney" shall mean legal counsel representing the Town of Mountain Village.
- L. The words "Building Code" shall mean the Town of Mountain Village Building Codes.
- M. The word "Council" or "Town Council" shall mean the Town of Mountain Village Town Council.
- N. The words "Planning and Zoning Commission" shall mean the Town of Mountain Village Town Council.
- O. The words “Planning and Zoning Advisory Board” shall mean the Town of Mountain Village Design Review Board.
- P. The words "Planning Department" or "Town Planning Department" or “Department of Planning and Design Review” shall mean the Town of Mountain Village Department of Community Development.
- Q. The word "State" shall mean the State of Colorado.
- R. The words "Planning Staff" or “Staff” shall mean those staff designated by the Town of Mountain Village Town Manager to act in such a capacity.
- S. Whenever a provision appears requiring the head of a department or some other Town Employee to do some act or perform some duty, it is to be construed that the head of the department or other officer may designate, delegate and authorize professional-level subordinates to perform the required act or duty, unless the terms of the provision or section specify otherwise.

SECTION 2-3 ABBREVIATIONS

Ac - acre

DRB – Design Review Board

CO – Certificate of Occupancy

C.R.S. Colorado Revised Statute

EHR – Town of Mountain Village Employee Housing Restriction

Ft – feet

HOA – Home Owners Association

LOC – Letter of Credit
LUO – Land Use Ordinance
Max - Maximum
Min - Minimum
MVMD – Mountain Village Metropolitan District
MVOA – Mountain Village Owners Association
OSP – Passive Open Space
OS – Active Open Space
PUD – Planned Unit Development
Sq ft or sf - square feet
TCO – Temporary Certificate of Occupancy
TFPD - Telluride Fire Protection District
UBC – Uniform Building Code
USACE – United States Army Corp of Engineers
USFS – United States Forest Service

SECTION 2-4 DEFINITIONS

2-401 ACCESS

A method of approach to provide physical entrance to or exit from a property or street.

2-402 ACCESS TRACT

A road that may be constructed to Town standards for acceptance as a public road or constructed and maintained privately by the adjacent property Owners for access, placement of utilities, snow storage, and storm water management.

2-403 ACCESSORY DWELLING UNIT

As defined in Section 4-306.

2-404 ACCESSORY STRUCTURE

A dwelling that may be developed on a Lot, Use of which is naturally and normally incidental, subordinate, and devoted exclusively to the main Use of the residence.

2-405 ACTIVE OPEN SPACE

A tract of land zoned as Active Open Space.

2-406 ADJOINING

A Lot or parcel of land that shares all or part of a common boundary line with another Lot or parcel of land.

2-407 AGENT

A person or organization who is authorized to represent the Owner of a property.

2-408 ALTER OR ALTERATION

Any change, addition, or modification in construction or occupancy.

2-409 APPLICANT

The Owner, or authorized Agent, presenting the request for approval under the Design Regulations or LUO.

2-410 APPLICATION

The submittal to the Design Review Board and Town Council for approval under the LUO and Design Regulations.

2-411 ARCHITECTURAL REVIEW BOARD

The Design Review Board of the Town of Mountain Village.

2-412 AWNING

A roof-like cover that is temporary in nature and that projects from the wall of a Building for the purpose of shielding a doorway or window from the elements.

2-413 BUILDING

Building means any structure having a roof supported by walls with a doorway for the housing or enclosure of persons or property of any kind but excluding advertising Sign boards, Fences under 6-feet high, retaining walls under 4-feet high, tepees, tents or similar type of temporary structure.

2-414 BUILDING CODES

Refers to all codes adopted by the Town pursuant to Ordinance No. 2004-08, and includes the 2003 International Building Code — Multi-family and commercial health and safety regulations, 2003 International Residential Code — Detached one and two family health and safety regulations, 2003 Mechanical Code — governs the installation of heating, ventilating and air-conditioning, 2003 Fuel Gas Code — Governs design and installation of fuel-gas piping and equipment, 2003 International Existing Building Code — Governs repair, alteration and relocation of existing structures, 2003 International Property Maintenance Code — Governs the existing structures and their premise, 2003 International Energy Conservation Code — Governs energy efficient construction, 2005 National Electric Code — Governs the design and installation of electrical systems, 2000 Uniform Plumbing Code — Governs the design and installation of plumbing systems, 2003 International Plumbing Code — Governs the design and installation of plumbing systems, 2003 International Fire as Code — as amended by the Fire Marshal of the Telluride Fire Protection District.

2-415 BUILDING ENVELOPE

That area on a Lot within which all Building Improvements must be located.

2-416 BUILDING FOOTPRINT LOTS

The following are undeveloped Lots that have been designated as TF on their respective plats: Lots 67, 69R2, 71R, 109, 110, 122 and 123. These Lots may be increased or decreased in size by up to twenty-five percent (25%) of the platted square footage of the Lot, and Development of a structure to the Lot line is allowed. The increase or decrease in the acreage of a Lot will result in a corresponding increase or decrease in the acreage of contiguous Active Open Space. The increase or decrease in acreage shall not affect the Density of the Lot. Any adjustment requires the review of the DRB, the approval of Town Council, the consideration of the impact on neighboring properties, and the approval of the Owner of the Open Space prior to Final Plan Approval. The

adjustment is a onetime only increase or decrease and shall cause the TF designation to be removed. Any Lot line adjustments pursuant to the TF designation shall require the Lot to be replatted.

2-417 BUILDING IMPROVEMENTS

Include, but are not limited to, Excavations, Buildings, decks, patios, roof overhangs, play areas, swimming pools, tennis courts, and enclosed parking areas. Driveways and exterior parking shall be reviewed by the DRB on an individual basis to determine location in relationship to the designated Building Envelope. Site topography, tree clearing, adjacent properties, etc., shall be considered by the DRB and/or Town Council in regard to driveway and exterior parking locations.

2-418 BUILDING OFFICIAL

The Town official responsible for administration and enforcement of all applicable Building Codes and the issuance of Building Permits.

2-419 BUILDING PERMIT

Includes Building Permits, Mechanical Permits, Plumbing Permits and Electrical Permits, Foundation and Grading Permits, and Landscaping Permits.

2-420 CALIPER

See "Diameter at Breast Height (DBH)."

2-421 COMMERCIAL

Designates a Lot or Condominium Unit that may be used for a broad range of Commercial operations and services. Allowed retail and service operations include, but are 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; personal services establishments including banks, barber and beauty shops, laundry or dry cleaning pick up and drop locations, laundromat, photo studio, shoe repair shop, tailor shop, vehicular rental shops, Offices, and arts and crafts studios; and Employee Housing.

2-422 CONDOMINIUM UNIT

An individual unit within a common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the Owners of the separate ownership portions.

2-423 CONSTRUCTION, START OF

The Excavation of land or installation of foundations, footings, or grading.

2-424 DENSITY

Refers to the population equivalents that have been established for each type of Dwelling Unit or zoning designation as follows:

<u>Zoning Designation</u>	<u>Density</u>
Single-Family	4.0

Sub-dividable Duplex	8.0
Non-Sub-dividable Duplex	6.5
Condominium	3.0
Hotel	1.5
Hotel Efficiency	2.0
Employee Condominium	3.0
Employee Apartment	3.0
Employee Dorm	1.0
Lodge Unit	0.75
Efficiency Lodge Unit	0.50
Employee Single Family	4.0

2-425 DENSITY BANK

Holds reserved, previously approved and platted, Density until such time as that Density is transferred onto a Lot or conveyed to the Town.

2-426 DENSITY LIMITATION

The total Density within the boundaries of the Town of Mountain Village, either platted or banked, is 8,027 (8,015 persons from the original PUD approved by San Miguel County and 12 persons of bonus Employee Density) as recorded in the Official Land Use and Density Allocation List.

2-427 DESIGN REGULATIONS

The regulations adopted by the DRB and Town Council, which, among other things, regulate the exterior appearance of property in the Town.

2-428 DETACHED CONDOMINIUM

An individual Dwelling Unit, without common attachment, within a common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the Owners of the separate ownership portions.

2-429 DEVELOPER

A recognized legal or beneficial Owner of a Lot or parcel of any land proposed for inclusion in a Development including a lessee, optionee, or contract purchaser.

2-430 DEVELOPMENT AND REDEVELOPMENT

Any of the following activities for which permission may be required pursuant to this LUO or Design Regulations: (a) the division of a parcel of land into two (2) or more parcels; (b) the construction, reconstruction, conversion, structural Alteration, relocation, or enlargement of any Buildings, structures, or Accessory Structures; (c) any use or change in use of any Buildings, land, or water; (d) any extension of any Use of land; (e) any clearing, grading or other movement of land; (f) any dredging, Filling, grading, paving, Excavation, or drilling operations; or (g) the storage, deposition, or Excavation of materials.

2-431 DEVELOPMENT PERMIT

Issued to a project that has complied with the requirements of the LUO and Design Regulations, received DRB Final Plan Approval, and resolved any and all conditions to which the Final Plan Approval is subject. A Building Permit may not be issued until a Development Permit has been issued for the project.

2-432 DIAMETER AT BREAST HEIGHT (DBH)

A measurement of the size of a tree equal to the diameter of its trunk measured four and one-half (4.5) feet above the adjacent Natural Grade.

2-433 DRAINAGE

The removal of surface water or groundwater from land by drains, grading, or other means. Drainage, sometimes referred to in terms of storm water management, also includes the control of runoff to minimize erosion and sedimentation during and after Development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

2-434 DULY AUTHORIZED PERSONS/REPRESENTATIVE

A Town Employee authorized by the Town Manager to enforce the provisions of the Design Regulations and Land Use Ordinance.

2-435 DWELLING UNIT

Dwelling Unit means a Building or a portion of a Building containing one (1) or more rooms, a bathroom, and a kitchen, designed for occupancy by residential purposes.

2-436 EASEMENT

Easement means a less than fee interest in land, which provides a person other than the Owner of the land certain rights over that land, or any designated part of that land, for the purposes specified.

2-437 EFFICIENCY LODGE UNIT

A Lot zoned for Efficiency Lodge Units that is 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 condominiumized.

2-438 EMPLOYEE

A person who is employed or can show intent to be employed within the Telluride R-1 School District and maintains residence in the Town.

2-439 EMPLOYEE APARTMENT

A Lot zoned for Employee Apartment that is any Building or portion thereof which contains three (3) or more Dwelling Units that cannot be separately conveyed as individual units and that contain living facilities and the occupancy of which is limited to Employees and encumbered by the EHR.

2-440 EMPLOYEE CONDOMINIUM

A Lot zoned for Employee Condominium that is an individual Dwelling Unit, the occupancy of which is limited to Employees, within a common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions. Employee Condominiums are encumbered by the EHR.

2-441 EMPLOYEE DORM

A Lot zoned for Employee Dorm that is a Building with individual rooms that provide sleeping and living accommodations with shared kitchen and recreational facilities and that cannot be separately

conveyed as individual units and that the occupancy of which is limited to Employees and encumbered by the EHR.

2-442 EMPLOYEE HOUSING RESTRICTION (EHR)

A Town Ordinance 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 persons who are employed or can show intent to be employed within the Telluride R-1 District and their spouses and children.

2-443 EMPLOYEE HOUSING UNIT

Includes Employee Apartments, Employee Dorms, Employee Condominiums and Employee Single Family that are subject to the EHR.

2-444 EMPLOYEE SINGLE FAMILY

Employee Single Family is a Lot with this zoning designation that allows for the construction of a Single-Family Dwelling Unit and that the occupancy of which is limited to Employees and encumbered by the EHR.

2-445 ENCLOSURE

A Building that includes four (4) walls and a roof structure.

2-446 EXCAVATION

Any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed; and the conditions resulting there from.

2-447 EXISTING USE OR STRUCTURE

Any Use of a Site, including any Building or other structure thereon, which is located on the Site at any given point in time, whether or not the Use or structure conforms to the provisions of the Land Use Ordinance and Design Regulations.

2-448 FACADE

The elevational surface of a Building.

2-449 FASCIA

A band located at the top edge of a Building but below the actual Roofline and above the Building wall. Fascia material is typically of a different type than either the actual roof or the Building wall.

2-450 FENCE

A barrier of posts, wire, rails, boards, metal sheets, or other material that is a barrier and used as a boundary or means of protection or confinement.

2-451 FILL

Any act by which earth, sand, gravel, rock or other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location; and the conditions resulting there from.

2-452 FILL, CLEAN

Rock, soil, sand, gravel, or other earth material which is uncontaminated by any organic substance, garbage, trash, discarded Building materials, etc., which is used for leveling, back-Filling, or otherwise preparing a Site for Development or construction.

2-453 FILL SLOPE

The surface of the outward margins or sides of a Fill.

2-454 FINAL PLAN

Approval pursuant to Section 2-4 of the Design Regulations.

2-455 FINAL PLAN APPROVAL

Granted by (1) the DRB following review of an Application for a Development Permit and determination of compliance with the LUO and the Design Regulations and/or (2) the Town Council following review of a Zoning or PUD Application and determination of compliance with the LUO and the Design Regulations.

2-456 FOOTCANDLE

Footcandle means a unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.

2-457 FREE MARKET HOUSING UNIT

A Dwelling Unit that is not restricted as to rent, sale price or occupancy requirements as described in the Town of Mountain Village Affordable Housing Guidelines or the Town of Mountain Village Employee Housing Restriction.

2-458 GENERAL EASEMENT

By way of example, the General Easement reserved on certain Plats is as follows:

General Easement: There exists for the benefit of the TSG Ski & Golf, LLC, (“Telski”) and/or its assigns a perpetual Easement, sixteen (16) feet in width over, across and under all areas designated as 16’ General Easement on this replat for any and all Uses, improvements and activities deemed necessary by TSG Ski & Golf, LLC; Mountain Village Metropolitan District; Telluride Mountain Village Resort Company, a Colorado non-profit corporation, doing business as Mountain Village Owners Association; and the Town of Mountain Village, for the safe and efficient operation of the Telluride Ski Area, Telluride Golf Course, and the Town, which include but are not limited to the following: utilities, drainage, electrical service, communication service, ski slope maintenance, bicycle access, skier access, roadway access, equestrian access, pedestrian access, golf cart access, snow making, waterways, slope maintenance, snow storage, retaining walls, snowmobile access, snow removal, snowcat access, water, sanitary sewer and storm sewer.

2-459 GRADE, FINISHED

The final elevation of the ground surface after Development.

2-460 GRADE, NATURAL

The elevation of the ground surface in its natural state before manmade Alterations.

2-461 HOTEL EFFICIENCY

A Lot zoned for Hotel Efficiency that is a two (2) room space, or one (1) room plus a Mezzanine, with separate bath and limited kitchen facilities used primarily for short-term accommodations. Limited kitchen facilities may include a sink, microwave, and a six (6) cubic foot (maximum) refrigerator. These units may be condominiumized.

2-462 HOTEL UNIT

A Lot zoned for a Hotel Unit that is a one (1) 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, and a six (6) cubic foot (maximum) refrigerator. These units may be condominiumized.

2-463 IMPROVEMENTS

Any additions to raw land or buildings such as structures, streets, sewers, etc.

2-464 INDUSTRIAL USE

Includes 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, Employee housing, 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.

2-465 INFRASTRUCTURE

Public facilities necessary to serve Development including, but not limited to, roads, potable water supply facilities, sewage disposal facilities, drainage facilities, electric facilities, natural gas facilities, telephone facilities and cable television facilities.

2-466 LOCK-OFF UNIT

A one (1) room space with a bathroom within a Condominium or Lodge Unit that may be designated to lock off from the remainder of the Dwelling Unit for use by a separate individual, family or group.

2-467 LODGE UNIT

A Lot zoned as Lodge Unit that is a two (2) room space plus a Mezzanine with up to two separate baths and a full kitchen. These units may be condominiumized.

2-468 LOT

A parcel of real property legally created within the Town according to this LUO and recorded by means of a plat filed with the San Miguel County Clerk and Recorder.

2-469 LUMENS

A unit of luminous flux equal to the light emitted in a unit solid angle by a uniform point source of one candle intensity.

2-470 MASTER DEVELOPMENT PLAN

A plan for a Multi-Unit, phased Development requiring a specific Application through the Design Review Process.

2-471 MEZZANINE

A space constructed within a room, not to exceed one-third (1/3) of the area of the room, open and unobstructed to the room in which it is located, except for columns, posts, and protective walls or railings not more than forty-four inches (44") in height. The clear height above and below the Mezzanine floor shall not be less than seven feet (7') and shall be allowed only on the top floor of the structure except in Commercial space.

2-472 MOUNTAIN VILLAGE METRO DISTRICT (DISTRICT)

A Colorado quasi-governmental entity.

2-473 MOUNTAIN VILLAGE OWNERS ASSOCIATION (MVOA)

Telluride Mountain Village Resort Company, a Colorado non-profit corporation, doing business as Mountain Village Owners Association.

2-474 MULTI-UNIT

A Lot zoned as Multi Unit that contains two or more Dwelling Units.

2-475 NONCONFORMING STRUCTURE

Any Building or structure, other than a Sign, legally established pursuant to the zoning and Building regulations in effect at the time of its Development which does not fully comply with the dimensional requirements of the LUO or Design Regulations for the zone district in which it is located.

2-476 NONCONFORMING USE

Any use of land, Building or structure which was established pursuant to the zoning and Building laws in effect at the time of its Development but which Use is not listed as a permitted, limited review or conditional Use in the LUO or Design Regulations for the zone district in which it is located.

2-477 NON-SUBDIVIDABLE DUPLEX LOT

A Lot zoned as Non Sub-dividable Duplex that allows for the construction of two (2) Dwelling Units and Accessory Dwelling Unit(s). Subdivision into two (2) Single-Family Lots requires the transfer of additional Density and approval of Town Council.

2-478 OFFICE

Includes a wide range of professional services and other activities that are customarily provided in an office environment: legal, accounting, investment and financial services; medical and dental and other health services; engineering, architectural and other design services; counseling and social services; insurance and real estate services; and administration and sales for business, industry and government provided only that administrative, bookkeeping and clerical types of activities are conducted on Site.

2-479 OFFICIAL LAND USE AND DENSITY ALLOCATION LIST

Shall mean the Official Land Use and Density Allocation that includes all Land within the Town of

Mountain Village, Colorado recorded October 6, 1995 at Reception No. 301133, as may be updated, amended and supplemented from time to time.

2-480 OPEN SPACE

Shall mean collectively Active Open Space and Passive Open Space.

2-481 OWNER

An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek Development of land.

2-482 PARKING TRACT

Designates a tract which Uses include, but are not limited to, the following: vehicle parking, 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 which is incompatible with the general resort nature of the Town.

2-483 PASSIVE OPEN SPACE

A tract of land zoned as Passive Open Space.

2-484 REDEVELOPMENT

See Development

2-485 RESTAURANT/BAR

An establishment oriented to the serving of food and/or beverages. Does not include establishments providing drive-in service.

2-486 ROOFLINE

The highest horizontal line of a Building or structure as defined by ridges, gables, dormers, or parapets and excepting chimneys, antennas, cupolas, and steeples.

2-487 SIGN

Any object, device, display, structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, 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.

2-488 SINGLE-FAMILY LOT

A Lot zoned as Single Family, which may only be used for the construction of a Single-Family Dwelling Unit and no more than one (1) Accessory Dwelling Unit.

2-489 SITE

The entire area included in the legal description of the land on which a land disturbing or land development activity is proposed in an Application for a Development Permit.

2-490 SKETCH PLAN APPROVAL

Approval pursuant to Section 2-3 of the Design Regulations.

2-491 SKI LIFT

Any mechanical device that is used to carry skiers and/or snowboarders from one point to another. Ski Lift shall include but not be limited to rope tows, J and T bars, platter lifts, chair lifts, funiculars, cog-wheel trains, conveyor lifts and gondolas.

2-492 SPECIAL EVENT

Includes gatherings, concerts, athletic events and races that occur infrequently and are temporary and short-term in nature.

2-493 STRUCTURE

Any constructed improvement to a site, temporary or permanent.

2-494 SUBDIVIDABLE DUPLEX LOT

A Lot zoned as Sub-dividable Duplex, which may be used for the construction of two (2) Dwelling Units plus Accessory Dwelling Unit(s). A Sub-dividable Duplex Lot may be subdivided into no more than two (2) Single-Family Lots.

2-495 SUBDIVISION

Any division of a Lot, Tract or parcel of land into two (2) or more parts by means of platting in accordance with the procedures and standards set forth Section 4-4 of this LUO. Development activity is proposed in an Application for a Development Permit.

2-496 TEMPORARY

Any non-permanent improvement that will remain for a specified period of time as determined by the Design Review process.

2-497 USE OR PERMITTED USE

A Use allowed in a Zone District subject to the restrictions applicable to that zone district.

2-498 VARIANCE

Deviations from the terms of this Land Use Ordinance that would not be contrary to the public interest when owing to special circumstances or conditions, or when the literal enforcement of the provisions of the LUO or Design Regulations would result in practical difficulty to the Owner of the property. A Variance must be approved pursuant to the procedures and standards of the LUO and/or Design Regulations.

2-499 VILLAGE CORE

The Village Core refers to a Zone District consisting of the following Lots: 28, 29A, 29B, 29C, 29D, 29E, 29F, 29G, 34, 35, 37, 38, 41, 42A, 42B, 43, 50A, 50B, 50C, 51, 53A, 53B, 59, 60RA, 60RB, 61AR, 61C/D, 65, 67, 68R, 69R1, 69R2, 71R, 73, 76, 82R1, 89A, 105R1, 106R, 108, 109, 110, 128, 134R, 134R2, 135R1, 136R1 and 161CR.

Village Core may be referred to as Village Center.

2-49901 VILLAGE CENTER

Village Center shall have the same meaning as Village Core.

2-49902 WETLANDS

An area where water is at, near, or above the land surface long enough to support aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. Determination of Wetlands in the Town shall be according to the United States Army Corps of Engineers and Environmental Protection Agency definitions.

2-49903 ZONING DESIGNATION

Zoning Designation shall have the meaning set forth in Section 4-303.

2-49904 ZONE DISTRICT

Zone District shall have the meaning as set forth in Section 4-304.

SECTION 2-5 CONFORMANCE REQUIRED

2-501 No Development of land within the Town, or change in Use of land, or any part thereof shall commence without approval granted in conformity with the provisions of this LUO, the Design Regulations, and other applicable ordinances and regulations.

2-502 Each Employee of the Town who has the duty or authority to issue a permit shall only issue permits in compliance with all applicable provisions of this Ordinance, the Design Regulations, and all Building Codes the Town has adopted. A permit, certificate or license issued by an Employee in error or which does not comply with the provisions of this Ordinance, the Design Regulations, or the Building Codes is void. A permit, certificate or license issued in reliance upon any materially false statement in the Application, supporting documents, or oral statements made on the record shall be null and void and shall be revoked. Erroneously issued permits shall not be construed as waiving any provision of this Ordinance, the Design Regulations, or the Building Codes. Any materially false statement made in the Application, supporting documents, or oral statements made on the record shall constitute a violation of this Ordinance, and each materially false statement shall be considered a separate violation of this Ordinance and may result in the Town imposing the penalties set forth herein.

SECTION 2-6 VIOLATIONS AND PENALTIES

2-601 The erection, construction, reconstruction, Alteration or Use of any structure, or the Use of any land, which is contrary to any provision of this Ordinance, the Design Regulations, or the Building Codes is a violation of the laws of the Town and subject to the fines and penalties set forth herein.

2-602 Until the Building Official has issued a Building Permit or otherwise given approval for such work, it is a violation of the laws of the Town to (a) commence the Excavation for, or the construction of, any Building or other structure, including Accessory Structures; (b) store Building materials, earth or Fill on any Site; (c) construct entrances or parking lots; (d) commence the moving, structural Alteration, conversion, extension, or enlargement of any structure including Accessory Structures, Fences or walls; or (e) cut and/or remove trees.

2-603 The Staff, Building Official, or such other authority as appointed by the Town Manager, shall have the authority to adopt policies and procedures in order to clarify the application of the provisions of the LUO, Design Regulations and Building Codes. Such policies and procedures shall

be in conformance with the intent and purpose of the LUO, Design Regulations and Building Codes. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the LUO, Design Regulations and Building Codes. Any person, as well as the Owner or lessee of the property, that undertakes any activity that is in violation of the DRB approved plans without the appropriate amendment or modification approved by the DRB or Town Staff shall be required to remove or remedy the violation in addition to being subject to the penalties imposed pursuant to the terms of this LUO and Design Regulations.

2-604 Any person that violates any provision of this Ordinance, the Design Regulations, or the Building Codes, as well as the Owner or lessee of the property on which the violation has occurred, may be subject to the penalties imposed pursuant to the terms of this LUO.

2-605 The Building Official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of the LUO, Design Regulations or Building Codes or in violation of a permit or certificates issued under the provisions of the LUO, Design Regulations or Building Codes. Such order shall direct discontinuance of the illegal action or condition and the abatement of the violation. The party who committed the violation or the owner or lessee of the property on which the violation occurred, or both, may be cited for such violation and shall be held responsible for paying any costs incurred by the Town. Such costs shall include reasonable attorneys' fees the Town incurred in connection with the violation.

2-606 The Town may institute appropriate action to prevent, enjoin, abate, or remove any violation of these Design Regulations, the LUO, or the Building Codes to prevent the occupancy of the Building, structure or land, or to prevent any illegal act or use in or on such premises.

2-607 Violations of or failure to comply with the provisions of this Ordinance, the Design Regulations, or the Building Codes constitutes a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000) per violation and/or imprisonment for up to one year. One or more violations may be found to arise from the same conduct or failure to comply with the LUO, the Design Regulations, or the Building Codes. Multiple violations may result in the imposition of fines exceeding \$5,000. Each day that a violation occurs or continues to exist is considered a separate offense and shall be subject to an additional fine.

2-608 Actions seeking to impose fines and penalties pursuant to this Ordinance shall be heard in the Town of Mountain Village Municipal Court (Municipal Court) and shall be governed by the Colorado Municipal Court Rules of Procedure or such other rules as may be adopted and deemed appropriate by the Municipal Court. Complaints initiating such actions may be filed by the Building Official or by the Town Manager or its designee.

2-609 In addition to the fines and penalties imposed for violating this Ordinance, the Design Regulations, or the Building Codes, the Municipal Court shall be entitled to assess costs against a guilty party, which costs shall include reasonable attorneys' fees incurred by the Town in investigating, documenting, and prosecuting the violation.

2-610 Whenever the Municipal Court imposes penalties or costs under this Ordinance or the Design Regulations, pursuant to C.R.S. § 18-1.3-506 it may also make such provision as it deems appropriate to guarantee the payment of such penalties or costs.

2-611 Appeals from Municipal Court actions shall be pursuant to C.R.S. § 13-10-116.

2-612 Neither the DRB nor Town Council will review or hear any Application, except for appeals, for any property on which there has been issued a violation or fees, taxes or past dues owed to the Town.

2-613 Neither the Planning nor the Building Department shall perform any work for any owner or agent to whom a violation has been issued.

2-614 No person or entity owing money to the Town, in any amount or for any purpose, specific to the Lot or Lots in question, as certified by the Town Treasurer, may apply for a Development Permit or a Building Permit until all monies owing are paid in full.

2-615 Any person aggrieved by a violation or apparent violation of the provisions of the Design Regulations, the LUO, or the Building Codes may file a written complaint with the Building Official or other Duly Authorized Person, who shall then investigate the complaint as soon as reasonably possible and take appropriate action within a reasonable amount of time.

SECTION 2-7 POWERS OF ENFORCEMENT

2-701 The provisions of this Ordinance and the Design Regulations shall be administered by the Staff and shall be enforced by the Building Official or such other authority as appointed by the Town Manager. For purposes of enforcing the provisions of this Ordinance, the Building Official shall have the powers of a law enforcement officer.

2-702 Staff, the Building Official, or other Duly Authorized Person is empowered and directed to inspect and examine the Use, occupation or Development of land for which a Development Permit has been issued to determine, from time to time, whether any Use, occupation, Development or activity is in violation of any of the provisions of this Ordinance, the Design Regulations, the Building Codes, or of any permit issued pursuant to this Ordinance, the Design Regulations, the Building Codes, or other applicable regulations.

2-703 Should access or entry to any land or premises be refused upon request by the Staff, an administrative search warrant may be issued from the Municipal Court authorizing Staff, the Building Official, or other designated official to enter upon such land or premises for purposes of making inspections.

SECTION 2-8 APPEALS OF ADMINISTRATIVE DECISIONS

2-801 Any person subject to an order or notice of violation issued by the DRB, the Building Official, or the Town Manager or its designee, or who is aggrieved by a decision of any Town administrative official with respect to the provisions of this Ordinance, the Design Regulations, or the Building Codes, may appeal to the Town Council. The Town Council is also hereby designated to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the Application and interpretation of all Building Codes.

2-802 In order to initiate an appeal pursuant to this Section, a Notice of Appeal must be filed with

the Staff within ten (10) days after the order or notice of violation is received by the violator, or, in cases in which a decision of the DRB or other Town official is appealed, within ten (10) days of the date the decision is announced. The Notice of Appeal shall describe the action complained of; shall contain the appellant's name, address and telephone number; and shall specify all grounds for the appeal. Failure to specify a ground for appeal in the Notice of Appeal will bar consideration of that ground by Town Council.

2-803 Upon receipt of a Notice of Appeal, Staff shall forward it to the Town Manager who shall schedule a hearing on the appeal before the Town Council within a reasonable period of time but not more than sixty (60) days following receipt of the Notice of Appeal.

2-804 The proper and timely filing of a Notice of Appeal will temporarily stay the subject order, notice of violation, or decision of the DRB or the Town administrative official, pending the outcome of the appeal before the Town Council, unless the DRB, the Building Official, or the Town administrative official certifies in writing to the Town Manager that a stay will pose an immediate threat to the health, safety, or welfare of persons or property or defeat the lawful purpose of the order, notice of violation, or decision; in which event, a stay shall not enter and such order shall be subject to immediate enforcement according to its terms, provided, however, that the timely filing of a Notice of Appeal shall not stay any Stop Work Order.

2-805 The Town Council shall hear all appeals at a public meeting with not less than thirty (30) days prior written notice to the appellant. The burden shall be on the appellant to demonstrate that the action of the DRB, the Building Official, or the Town administrative official was in error, unjustified, or otherwise not in accordance with the terms of the LUO, Design Regulations, or Building Codes. Unexcused failure on the part of the appellant or their representative to appear at the scheduled hearing shall result in affirmance of the appealed decision.

2-806 Any appeal heard pursuant to this Section 2-8 shall be an evidentiary hearing with appellant and appellee, being given an opportunity to present oral and documentary evidence in accordance with procedures established by the Town Manager or the Town Council.

2-807 The appellant shall be responsible for securing the attendance of a court reporter at the hearing. The transcript prepared by the court reporter, the documents submitted by appellant and appellees and the findings of fact and conclusions of law issued by the Town Council shall constitute the record on appeal. Any party wishing to obtain a copy of the transcript shall bear the expense of doing so.

2-808 Within thirty (30) days of the hearing date, the Town Council shall issue findings of fact and conclusions of law.

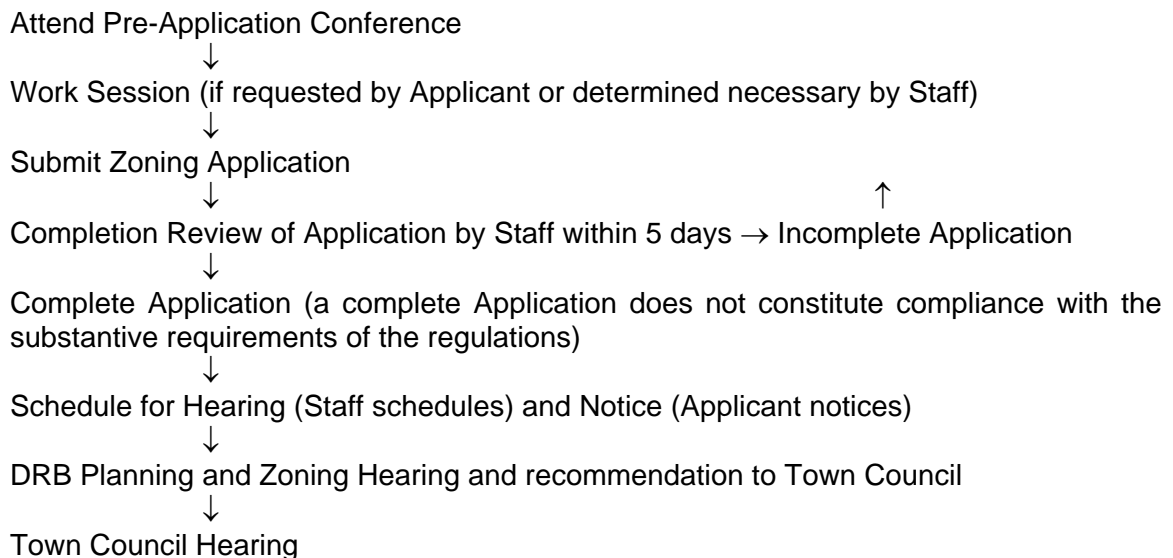
2-809 In order to ensure adequate notice to both parties to any appeal and the efficient presentation of evidence, the appellant shall disclose to appellee his list of witnesses twenty (20) days before the hearing date. This disclosure shall include the name, address, and telephone number of each witness and a brief summary of the subject matter of each witness's testimony. Also twenty (20) days before the hearing date, appellant shall provide a list of all documents he will seek to introduce into evidence and shall provide copies to the Town. The Town shall reciprocate with the same disclosures ten (10) days before the hearing date. The failure to make adequate disclosure shall be grounds for excluding the proffered evidence.

2-810 The Town Council may reverse, affirm or modify the appealed decision, and Town Council shall have all powers vested in the DRB, the Building Official, or other Town administrative officials to impose reasonable conditions to be complied with by the appellant as part of the decision. A copy of the Town Council's decision shall be mailed to the appellant.

2-811 Decisions of the Town Council shall be final, subject only to judicial review by a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure.

ARTICLE 3 ZONING PROCESS

SECTION 3-1 STAGES OF THE REVIEW PROCESS



SECTION 3-2 PRE-APPLICATION CONFERENCE

3-201 Prior to filing a zoning Application, an Applicant is required to attend a pre-Application conference with the Department of Community Development to determine compliance with the LUO and obtain guidance for preparing the Application.

3-202 During the pre-Application conference. Staff will explain the procedural requirements, explain the public notice requirements, provide the Applicant with an Application package, and establish applicable fees. The Applicant may request during the pre-Application conference that Staff schedule a work session with the reviewing body prior to submitting a zoning Application. Staff may also schedule a work session if Staff determines it is necessary.

SECTION 3-3 SUBMISSION OF ZONING APPLICATION AND SCHEDULING

3-301 A zoning Application and appropriate fee shall be submitted to the Department of Community Development with all pertinent documentation and relevant information as identified in the Application form. Only one (1) Application for a Lot shall be allowed to be considered at any one time. The submittal of a subsequent Application shall automatically void any prior Applications.

3-302 Following receipt of a zoning Application, Department of Community Development shall complete a preliminary review of the Application to determine whether or not the Application is complete and whether the Application complies with the requirements of the underlying zone district. Staff will complete this review within five (5) business days of receiving the Application. If Staff determines the Application is complete, the Applicant is notified and assigned an agenda date, which shall be at least thirty (30) days after determination of completeness to allow for notice to be given to the public. The Applicant will be notified if the Application is incomplete. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of the Land Use Ordinances or Design Regulations.

SECTION 3-4 PROVISION OF PUBLIC NOTICE

3-401 Thirty (30) days notice is required before any public meeting (other than an appeal heard pursuant to Section 2-8 above), for both DRB and Town Council, through mailing of notice to surrounding property Owners, unless different notice is specifically authorized under a separate provision of the LUO or Design Regulation. Publication of the Town Council or DRB agenda in a newspaper of general circulation within the Town is the responsibility of the Department of Community Development.

3-402 Projects will be placed on the agenda in the order determined by Staff taking into account such factors as the length of the Application, the time needed for DRB review, and the number of Applications to be heard by the DRB at that hearing. Additional substantive information, if determined to be necessary by Staff, may be required after the Application has been found to be complete. If the Application is withdrawn, the Applicant must complete thirty (30) day notice for a new meeting. If the Application is continued at the originally noticed meeting to a specific date, no additional noticing will be required. If the Application is continued at the originally scheduled meeting but not to a specific date, additional 30 day noticing of the new meeting will be required once a new meeting date is determined. Staff will determine whether to withdraw or continue the Application.

3-403 Mailing of a notice is the responsibility of the Applicant who shall obtain a copy of the appropriate forms from the Department of Community Development. The list of property Owners names and addresses should be created by the Applicant using the current list of landowners as maintained by the San Miguel County Assessor or as compiled through a licensed title insurance company. The Applicant shall notify, by mail, surrounding property Owners within four hundred (400) feet of the subject property. If a Condominium Unit Development is located within the prescribed distance of the subject property, the Applicant shall notify, by mail, the Condominium association, and every Condominium Unit Owner or part Owner owning at least 50% interest in a Condominium Unit. Prior to the mailing of notice, the Applicant shall deliver to the Department of Community Development a copy of the notice and a certificate of mailing for review and approval. Proof of proper noticing must be submitted to the Department of Community Development. If an Application is not placed on the agenda date noticed, for whatever reason, the Applicant shall re-notice the correct scheduled meeting date at least fifteen (15) days prior to the next regular scheduled meeting and thirty (30) days prior to any subsequent meeting dates.

3-404 Notices shall include, at a minimum, the following:

- a) Name and address of the Applicant;
- b) Type of Application;

- c) Address and legal description of the subject property;
- d) Date, time and place of the DRB and/or Town Council meeting;
- e) Detail summary of the Application under consideration;
- f) Description of any requested Variance or Special Use Permit;
- g) Vicinity Map;
- h) Identification of the decision-making body conducting the meeting and any other information as may be required to apprise the public of the nature of the Application.

3-405 Posting of a notice on the Subject Property is the responsibility of Staff. The notice shall be posted on the Subject Property at least fifteen (15) days prior to the meeting date. . The posted notice shall indicate that the Property is the subject of a pending land use application before the Town and shall provide a contact phone number with the Town to obtain public information regarding the application. More than one notice may be posted on the Subject Property if Staff determines that because of the size or orientation of the property additional posted notice is necessary. Staff shall be responsible for removing the notice from the Subject Property after the posted meeting date.

3-406 If a project is determined to have been inadequately noticed and/or the noticing is determined to be incomplete, the Applicant will be required to re-notice adjacent property Owners thirty (30) days prior to a new scheduled meeting date.

SECTION 3-5 REVIEW OF ZONING APPLICATION AND REFERRAL

3-501 A zoning Application shall be thoroughly reviewed by the Department of Community Development to determine whether it conforms to the requirements of the LUO. The Application may, as necessary, be referred to any public utility, or any other agency or organization deemed appropriate, to complete the review, i.e. Public Works, , the Telluride Fire Protection District (TFPD) or San Miguel Power Association (SMPA). A written report summarizing any review agency comments, public comments, and Staff comments, shall be completed by Staff and distributed to the reviewing body and the Applicant.

3-502 The Applicant shall be responsible for all fees associated with the review of the Application by any outside professional consultant, engineer, agency or organization.

3-503 The Applicant shall be responsible for all legal fees incurred by the Town in the processing and review of any Application.

3-504 The Office of Community Development will record all plats once the plats are approved and finalized. The Applicant will be responsible for the fees associated with the recording of all plats and all related documents.

SECTION 3-6 PLANNING AND ZONING MEETING/RECOMMENDATION TO COUNCIL

3-601 The DRB shall consider a zoning Application at a public meeting only after notice is given in conformity with the LUO. The DRB shall review the data provided by the Applicant, review the findings and recommendations of the Department of Community Development, and receive comment from all interested persons in attendance. Thereafter, the DRB shall recommend to the Town Council that the Application be continued, approved, approved with conditions, or denied.

SECTION 3-7 TOWN COUNCIL APPROVAL OR DENIAL

3-701 Following the DRB's recommendation for approval, approval with conditions or denial of an Application, the Town Council, after proper notice, shall consider the Application. The Town Council, taking into consideration the findings and recommendations of the DRB and the comments of interested persons, shall approve or deny an Application. The Town Council shall be the final decision-making body on an Application. The decision of Town Council shall be in the form of a resolution and shall be recorded at the County Clerk and Recorder's Office, San Miguel County, Telluride, Colorado. The Applicant shall provide the Staff with a non-erasable Mylar, containing all required signatures except the Mayor's.

SECTION 3-8 EXPIRATION OF APPROVAL

3-801 Upon approval of a zoning Application by the Town Council, the Applicant shall comply with the conditions of approval within six (6) months and cause the plat to be recorded. Failure to record a plat within six (6) months of approval shall render the approval and the plat null and void. Plats that received Town Council approval prior to the adoption of this Ordinance shall be exempt from this requirement.

ARTICLE 4 ZONING APPLICATIONS

SECTION 4-1 PURPOSE

There are four (4) basic types of zoning Applications: Density Transfers, Zoning/Rezoning, Platting/Replatting and Planned Unit Developments.

SECTION 4-2 DENSITY TRANSFERS

4-201 DENSITY TRANSFER

Density may be transferred from one Lot to another within the Town, provided that the zoning of both Lots allows for the increase or decrease of Density, and provided that the Density Transfer is approved by Town Council.

4-202 REVIEW STANDARDS

In addition to demonstrating compliance with the provisions of Article 4, the following standards and requirements shall be used to evaluate Density transfer requests. It shall be the burden of the Applicant to demonstrate that submittal material and the proposed Development substantially complies with the following standards and requirements or demonstrates that one or more of them are not applicable.

- (1) The Density transfer proposed is generally consistent with the underlying purposes and goals of the LUO and the Design Regulations that state the following:
 - Provide a clear, consistent, predictable and efficient land Development Review Process;
 - Promote public health, safety and welfare;

- Preserve Open Space and protect the environment;
 - Enhance the natural beauty of the Town's surroundings;
 - Foster a sense of community;
 - Promote good civic design and Development;
 - Create and preserve an attractive and functional community;
 - Promote the economic vitality of the Town;
 - Promote the resort nature and tourism trade of the Town;
 - Ensure that uses and structures enhance their sites and area compatible with the natural beauty of the Town's setting and its critical natural resources; and
 - Protect property values within the Town.
- (2) The proposed Density transfer is compatible with the surrounding environment, neighborhood and area relative to, but not limited to, scale, bulk, Building height, buffer zones, character, and orientation and shall not unreasonably affect existing land Uses and the future Development of the surrounding neighborhood and area.
- (3) Adequate public facilities and services are available to serve the proposed Density transfer.
- (4) The proposed Density transfer shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion.
- (5) In Applications that propose removing Density from a Village Center and Multi Unit Lot, the Applicant must prove the existence of a practical difficulty that prohibits the build out of the platted Density.

4-203 EMPLOYEE HOUSING DENSITY TRANSFER

Employee housing Density on a Multi-unit Density Lot must be built out on the property and cannot be transferred to the Density Bank or to another Lot, unless that Lot where Density is transferred can receive all development approvals and commence construction of the Employee housing Density simultaneously with transfer to it of Employee housing Density. Provided, however, Employee housing Density may transfer to the Town of Mountain Village Density Bank for the benefit of the Town of Mountain Village Housing Authority if the Housing Authority recommends and determines that the Density can be used to develop housing on other Lots. The transfer of Employee housing Density to the Housing Authority will only be approved upon the determination by Town Council that the transfer satisfies the Review Standards set forth in Section 4-5 herein and the Applicant has either (i) donated land to the Housing Authority or (ii) paid the Employee housing dedication fee to the Housing Authority. The Housing Authority shall adopt the fees for Employee housing Density on an annual basis in the Housing Authority Operating Guidelines. The transfer of

any donated land to the Housing Authority or payment of the applicable employee housing dedication fee shall be made to the Housing Authority prior to the issuance of any Building Permits for the Lot from which the Employee housing Density has been transferred. All Employee housing dedication fees shall be placed in a segregated, interest bearing account and shall be used only for the purpose of planning for, subsidizing or developing Employee housing. The use of any donated land shall only be used for the development and construction of Employee housing. Employee housing density may not be rezoned to free market units.

4-204 DENSITY BANKING

Density may be increased or decreased on a Lot without being transferred to or from another Lot if the Density is put into or taken out of the Density Bank. The Density Bank has been established in order that Density that is not being developed on a Lot can be reserved for future Development on a Site yet to be determined and approved. Density that is transferred to the Density Bank is unplatted, but retains its zoning designation from previous platting. The Owner of record is responsible for all dues, fees and taxes appropriate to the previously platted Density, until the Density is either transferred to a Lot or to the Town. A record of the ownership of Banked Density will be kept as part of the Official Land Use and Density Allocation List.

4-205 DENSITY LIMITATION

Density transfers, platting/Replatting, and zoning/rezoning shall not increase the total Density above the Density Limitation, except to allow for the creation of additional Multi-Unit Employee Housing, subject to the EHR.

4-206 EMPLOYEE HOUSING DENSITY

The Town desires to maintain the current percentage of Density allocated to Employee Housing and subject to the EHR, which is 15% of the PUD Density (1,234 persons platted or banked), as recorded in the Official Land Use and Density Allocation For All Land Within The Town of Mountain Village, Colorado recorded October 6, 1995 at Reception No. 301133 in the records of the San Miguel County Clerk and Recorder, as amended from time to time, and desires to increase that percentage if the opportunity arises. An increase could result from an exchange of free-market Density for Employee Density or an award of bonus Employee Density to a project that builds additional units of Employee Housing.

SECTION 4-3 ZONING/REZONING

4-301 Rezoning from one zone district or zoning designation to another is permitted, if approved by Town Council provided that the rezoning is consistent with the characteristics of the zone district and neighborhood and consistent with the requirements of this Ordinance and provided that the rezoning does not result in a net increase in Density. Lots or units subject to the EHR may only convert to Employee Apartment, Employee Single Family, Employee Condominium, or Employee Dorm, unless Variances are approved by Town Council as defined in LUO Article 5. Single-Family Zoning Designations on Lots may only be rezoned to a Zoning Designation of either Active Open Space or Passive Open Space through the appropriate rezoning procedure as outlined within the LUO. Single-Family Zoning Designations within the Density Bank may be rezoned to any Zoning Designation through the appropriate rezoning procedure outlined within the LUO. Lodge, Efficiency Lodge, Hotel, and Hotel Efficiency Zoning Designations may not be rezoned to Condominium Zoning Designations.

4-302 Rezoning of a Condominium Unit from residential to Commercial, or vice-versa, whether or not there is any change to the exterior of the Building, requires a rezoning of the affected unit(s).

4-303 All real property in the Town has a Zoning Designation:

Zoning Designations

Active Open Space
Commercial
Condominium
Efficiency Lodge
Employee Apartment
Employee Condominium
Employee Dorm
Employee Single-Family
Hotel
Hotel Efficiency
Industrial
Lodge
Non-Subdividable Duplex
Parking
Passive Open Space
Single-Family
Subdividable Duplex

4-304 There are hereby established Zone Districts for the Town as follows:

1. Single-Family/Subdividable Duplex/Non-Subdividable Duplex
2. Village Center
3. Multi-Unit
4. Active Open Space
5. Passive Open Space
6. Plaza Area

4-305 SINGLE-FAMILY/SUBDIVIDABLE DUPLEX/NON-SUBDIVIDABLE DUPLEX

4-305-1 Single-Family Lots may be used for the construction of only one (1) Single-Family Dwelling Unit and no more than one (1) Accessory Dwelling Unit. Accessory Dwelling Units constructed prior to construction of the Single-Family Dwelling Unit shall meet the Design Regulations for a Single-Family Dwelling Unit, including the parking requirement pursuant to Section 7-2 of the Design Regulations. Single-Family Zoning Designations on Lots may only be rezoned to a Zoning Designation of either Active Open Space or Passive Open Space through the appropriate rezoning procedure as outlined within the LUO; provided, however, a Single Family Lot may be rezoned to another Zoning Designation, pursuant to the Planned Unit Development process set forth in Section 4-6. Single-Family Zoning Designations within the Density Bank may be rezoned to any Zoning Designation through the appropriate rezoning procedure outlined within the LUO. Single Family Lots may not be further subdivided and additional Density may not be transferred onto a Single Family Lot; provided, however, a Single Family Lot may be further subdivided and additional Density

may be transferred onto a Single Family Lot, pursuant to the Planned Unit Development process set forth in Section 4-6.

4-305-2 A Sub-dividable Duplex Lot may be used for the construction of a maximum of two (2) Dwelling Units whether or not the Lot is subdivided. Dwelling Units constructed on a Sub-dividable Duplex Lot may be either detached or combined into one (1) structure. A Sub-dividable Duplex Lot may be subdivided into no more than two (2) Single-Family Lots. Subdivision into two (2) Single-Family Lots requires the approval of a replat and rezone Application by the Town Council.

4-305-3 A Non-Sub-dividable Duplex Lot allows for the construction of two (2) Dwelling Units. One (1) Dwelling Unit shall be designated as a major duplex unit and one (1) Dwelling Unit shall be designated as minor duplex unit. The square footage of the minor duplex unit may not exceed seventy-five percent (75%) of the square footage of the major unit. Dwelling Units may be either detached or combined into one (1) structure. Subdivision into two (2) Single-Family Lots requires the transfer of additional Density and the approval of a replat, rezone and Density transfer Application by the Town Council.

4-305-4 Most of the properties covered in this Section 4-305 are burdened by the General Easement.

4-305-5 The Building height limitation is 35 feet, except as otherwise specified in the Design Regulations, a specific design covenant as defined in Article 17 of the Design Regulations, or on a recorded plat.

4-305-6 Only one (1) curb cut is allowed per Lot. Lots that are accessed from an Access Tract have certain additional requirements as set forth in Section 5-5 of the Design Regulations.

4-305-7 The parking requirement is one (1) space per bedroom, with at least two (2) spaces enclosed. Parking shall be developed in accordance with Section 7-2 of the Design Regulations.

4-305-8 Each Dwelling Unit must provide a convenient, immediately adjacent, enclosed area for trash removal.

4-305-9 All Lots must have a lighted Address Identification at the driveway entry.

4-305-10 No Commercial business may be conducted from a residence without a Home Occupation Permit issued in accordance with the provisions of Section 14-2 of this Ordinance.

4-306 ACCESSORY DWELLING UNITS

4-306-1 Accessory Dwelling Units shall only be permitted on Single-Family Lots.

4-306-2 Accessory Dwelling Units shall consist of only one Building and be considered accessory to a Single-Family Dwelling Unit and shall follow the appropriate Design

Regulations for Single-Family Dwelling Units.

4-306-3 Accessory Dwelling Units may be constructed up to 800 square feet for main Single-Family Dwelling Units of 4,000 square feet or less (livable space). Accessory Dwelling Units for main Single-Family Dwelling Units that exceed 4,000 square feet (livable space) shall not exceed twenty (20%) percent of the main Single-Family Dwelling Unit or 1,500 square feet (livable space), whichever is less.

4-306-4 Accessory Dwelling Units shall be required to be physically attached (roof forms and foundation) to the main Single-Family Dwelling Unit if the Lot is less than or equal to .75 acres. Lots that are greater than .75 acres may develop an Accessory Dwelling Unit to be detached from the main Single-Family Dwelling Unit.

4-306-5 Only one Accessory Dwelling Unit shall be permitted on any Single-Family Lot.

4-306-6 An Accessory Dwelling Unit shall be required to provide separate access to the unit, to provide a kitchen facility separate from the main Single-Family Dwelling Unit, and to provide off-street parking.

4-306-7 Accessory Dwelling Units constructed prior to construction of the main Single-Family Dwelling Unit shall meet the Design Regulations for a main Single-Family Dwelling Unit, including the covered parking requirement pursuant to Section 7-2 of the Design Regulations.

4-307 LOT COVERAGE FOR SINGLE-FAMILY HOMES

4-307-1 In no event shall the footprint of all structures of any Single-Family Lot cover more than forty (40) percent of the square footage of the Lot.

4-307-2 For the purpose of calculating Lot coverage, structures shall mean the total horizontal area of any Building, carport, porte-cochere, arcade, and shall also include walkways, roof overhangs, eaves, exterior stairs, decks, covered porch, terraces, and patios.

4-308 VILLAGE CENTER

4-308-1 Village Center Lots may be used for the construction of Hotel Units, Hotel Efficiency Units, Lodge Units, Efficiency Lodge Units, Condominium Units, Commercial space, Employee Housing Units, and parking, together with such public and semi-public facilities, private recreation facilities and related visitor-oriented uses as may be appropriately developed on the property.

4-308-2 First Floor or Plaza Level shall be defined as the floor of the Building that is located at grade or Plaza Level. The following Uses shall be permitted on the Plaza Level:

- a) Retail stores and establishments;
- b) Eating and drinking establishments;
- c) Multi-Unit entrance areas and lobbies;

- d) Professional Offices, business Offices and studios (not directly fronting Village Center plazas);
- e) Full-service banks and/or ATM Centers (not directly fronting Village Center plazas);
- f) Meeting and conference rooms (not directly fronting Village Center plazas).

4-308-3 No Offices of any nature, including but not limited to, professional Offices, Offices of physicians, dentists, attorneys, utility companies, governmental entities, insurance agents and accountants may be operated or located in the improvements constructed on property that directly fronts the Village Center plazas.

4-308-4 Residential occupancy shall not be an allowed Use on the "First Floor" or "Plaza Level" within a structure. Notwithstanding Article 5, the Town Council may approve residential housing on the "First Floor" or "Plaza Level" on a case-by-case basis.

4-308-5 All Offices, businesses, and services permitted by this Section shall be operated and conducted entirely within a Building, except for permitted unenclosed parking or loading areas, and plaza Uses permitted by Public Works.

4-308-6 Nonconforming Sites, Uses, structures and Site improvements lawfully established and lawfully authorized by permits, regulations or by private covenants that have not yet expired, that exist prior to the date of the original adoption of this LUO, may continue, subject to the limitations prescribed by such permits, regulations, or existing private covenants and/or this Subsection 4-308.

4-308-7 Any Nonconforming Use, which is discontinued for a period of twelve (12) months, regardless of any intent to resume operation of Use, shall not be resumed thereafter nor subleased to a Nonconforming Use, and any future Use of the Site or structures thereon shall conform to the provisions of this Ordinance.

4-308-8 Lot perimeters of Building Footprint Lots are permitted to adjust, so long as the adjustment relates to and accentuates the pedestrian areas and/or sun, shade, and design.

4-308-9 The maximum Building height limit is sixty (60) feet, and the maximum average Building height limit is forty-eight (48) feet, except as specified in the Design Regulations, a specific design covenant as defined in Article 17 of the Design Regulations, or on a recorded plat.

4-308-10 All Building Footprint Lots that develop driveways are required to establish an Access Easement. Access Easements require the approval of TSG, Public Works and the Town Council.

4-308-11 Parking is required pursuant to Section 7-3 of the Design Regulations. Underground parking facilities may extend beyond the above ground Building Footprint. This expansion of underground parking facilities requires the approval of the Owner of the Open Space and the Town.

4-308-12 Only one (1) curb cut per Lot is permitted.

4-308-13 Underground parking garages must have areas designed to accommodate the

storage and removal of trash.

4-308-14 All structures on Lots within the Village Center are required to have Building Identification.

4-308-15 All Lots within the Village Center shall be required to develop the adjacent Open Space, or common area, in coordination with Public Works up to a maximum of thirty (30) feet out from the Building Footprint or cover the area of disturbance, whichever is greater.

4-309 MULTI-UNIT

4-309-1 Multi-Unit Lots outside the Village Center may be used for the construction of Lodge Units, Efficiency Lodge Units, Condominium Units, Detached Condominium Units, Employee Housing Units, Hotel, Hotel Efficiency, Commercial and Industrial Uses, and parking.

4-309-2 Most of the properties covered in this Section 4-309 are burdened by the General Easement.

4-309-3 The maximum height limit is forty-eight (48) feet and the maximum average height limit is forty-eight (48) feet, except as specified in the Design Regulations, a specific design covenant as defined in Article 17 of the Design Regulations, or on a recorded plat.

4-309-4 Parking is required pursuant to Section 7-3 of the Design Regulations.

4-309-5 Only one (1) curb cut per Lot is permitted.

4-309-6 Trash/service areas must be designed for convenient deliveries and storage and removal of trash immediately adjacent to the structure and/or within the underground parking structure.

4-309-7 All structures on Multi-Unit Lots are required to have Address Identification and/or Building Identification.

4-309-8 Detached Condominiums may be used for the construction of one (1) or more Condominium Units without common attachment, provided that the proposed land use plan conforms to the intended or existing Development patterns of the neighborhood.

4-309-9 The maximum height limit for Detached Condominiums is thirty-five (35) feet and the maximum average height limit is thirty (30) feet, except as specified in the Design Regulations, a specific design covenant as defined in Article 17 of the Design Regulations, or on a recorded plat.

4-309-10 A common ingress/egress element, such as a vehicular court, should be provided where applicable as should other types of common design elements such as walkways, courts, retaining walls and landscaping.

4-309-11 Each Dwelling Unit must provide a convenient, immediately adjacent, enclosed

area for trash removal.

4-309-12 All structures are required to have Address Identification and/or Building Identification.

4-310 REZONING TO MULTI UNIT LOT REQUIREMENTS

Lots outside the Village Center rezoning to any Multi-Unit zoning designation may be required to have a transportation plan and may be required to provide certain amenities on Site, such as outdoor spa facilities, playgrounds, fitness facilities or a common area gathering place as a condition of approval.

4-311 ACTIVE OPEN SPACE

4-311-1 Active Open Space shall be preserved as to acreage and general location as designated in the Official Land Use and Density Allocation For all land within the Town of Mountain Village, Colorado recorded October 6, 1995, at Reception No. 301133 in the records of the San Miguel County Clerk and Recorder, as amended from time to time, with the exception of the Active Open Space in the Village Center that may increase or decrease as Lots within the Village Center are Developed. Lot line adjustments involving Active Open Space are permitted subject to Town Council Approval so long as there is no net loss of Active Open Space or results in a violation of the County Settlement Agreement dated September 8, 1999 and recorded in the records of San Miguel County Clerk and Recorder.

4-311-2 All real property within the Active Open Space Zone District may be used for the construction of golf course, golf clubhouse, golf halfway houses, riding stables, equestrian facilities, tennis courts, ski slopes, ski trails, ski lifts, snow making facilities, ski area Restaurants, ski racing structures, ski patrol facilities, ski area maintenance facilities, ski rental/demo facilities, ice arena or other recreational facilities, Employee Housing, non-Commercial refueling facilities, explosives storage, gondola structures, lift structures, water wells, water storage tanks, water reservoirs, water treatment plants, communication receiving stations, communication transmitting stations, drainage ditches, drainage swales, drainage structures, access roads, service roads, maintenance roads, utility transmission lines, pedestrian paths, equestrian trails, hiking and biking trails, transportation system facilities, parking lots, sewage collection systems, storm drainage systems, retaining walls, benches, snow storage, landscaping, cross-country skiing trails, golf cart access, and snowcat access and related uses.

4-311-3 As a condition to the commencement of any permitted use of real property within the Active Open Space Zone District as limited and described in Section 4-311-2 above, or a change in use of an existing use, a Special Use Permit in compliance with the process and procedures set forth in Section 14-1 of this Land Use Ordinance shall be obtained and a Development Permit in compliance with the process and procedures set forth in Article 2 of the Design Regulations shall be obtained.

4-311-4 Free market housing may only be allowed on Active Open Space in the event that the EHR deed restriction is terminated in the event of foreclosure by the holder of the promissory note secured by a first deed of trust (other private seller financing) on an Employee Housing Unit and subject to the issuance of a public trustee's or sheriff's deed to

the holder of the promissory note or governmental agency guaranteeing, insuring, or acquiring the promissory note from the holder.

4-312 PASSIVE OPEN SPACE

4-312-1 Passive Open Space shall be preserved as designated in the Official Lot List recorded October 6, 1995 at Reception No. 301133 in the records of the San Miguel County Clerk and Recorder, as amended from time to time. Passive Open space is intended to preserve property within flood plains, Wetlands, riparian areas and wildlife habitats in its natural character. Lot line adjustments that affect Passive Open Space are permitted with Town Council approval, so long as there is no net loss of Passive Open Space.

4-312-2 Uses allowed on Passive Open Space include, the following and similar Uses: pedestrian paths, hiking and biking trails, nature trails, land in its undisturbed natural state, and subsurface utilities.

4-313 PLAZA AREA

4-313-1 Pursuant to meeting the requirements of the Design Regulations as applicable, all real property within the Plaza Area Zone District may be used for:

- a. Outdoor dining areas
- b. Outdoor seating areas
- c. Vending carts
- d. Outdoor display of merchandise
- e. Special Events approved pursuant to Article 19 of the Design Regulations
- f. Special Uses as approved pursuant to Article 14 of the LUO
- g. Town Events
- h. Furniture, fixtures and equipment related to permitted uses including, without limitation, trash containers, media racks, recycling containers, benches, chairs and ski racks
- i. Guest services, such as ski valets
- j. Village animation approved pursuant to the Temporary Use process
- k. Parks or open space
- l. Recreational Activities within or on built facilities approved by the Town as a part of the required Development Review. Recreational activities include, but are not limited to, ice skating, bocce ball, climbing.
 - a. All other recreational activities not classified as a Special Event may be considered by the Town pursuant to the Temporary Use process.
- m. Ski lifts, gondola structures and lift structures
- n. Drainage ditches, drainage swales and drainage structures
- o. Access roads, service roads and maintenance roads
- p. Underground utility transmission lines
- q. Pedestrian paths, sidewalks and hiking and biking trails,
- r. Transportation system facilities and parking lots,
- s. Sewage collection systems and storm drainage systems
- t. Retaining walls and landscaping
- u. Snow storage
- v. Building Development in the Village Center as provided for in Section 4-313-4.

4-313-2 As a condition to the commencement of any licensed or permitted use of real property within the Plaza Area Zone District as limited and described in Section 4-323-above or a change in use of an existing use, a Development Permit in compliance with the process and procedures set forth in Article 2 of the Design Regulations shall be obtained.

4-313-3 Land within the Plaza Area Zone District, located in the vicinity of Big Billie's on OS 35B, OS 35C and at Town Hall Plaza located on OS1E, shall be preserved as acreage and general location as designated in the Official Land Use and Density Allocation. For all land within the Town of Mountain Village, Colorado, recorded October 6, 1995, at Reception No. 301133 in the records of the San Miguel County Clerk and Recorder, as amended from time to time, with the exception of land in the Plaza Area Zone District in the Village Center which may increase or decrease as Lots within the Village Center are Developed. Subdivisions involving land in the Plaza Area Zone District are permitted subject to Town Council Approval so long as there is no net loss of Active Open Space or a violation per the County Settlement Agreement dated September 8, 1999, and recorded in the records of San Miguel County Clerk and Recorder.

4-313-4 The Town Council may approve Building Development in the Plaza Area Zone District in the Village Center provided: (1) such Buildings are three stories or less; and (2) the Buildings are approved by the Town Council pursuant to the PUD process outlined in the LUO.

SECTION 4-4 PLATTING/REPLATTING

4-401 A plat consists of a land survey that establishes a legal description for a tract of real property and includes certain plat notes or zoning requirements that pertain to the Development of that property. Plats shall reflect recorded Easements and rights-of-way, delineated Wetlands, if present, zoning designation and Density, and Lot size and configuration. All plats require a professional land surveyor stamp and a professional engineering stamp.

4-402 A Replat allows for vacations of, or adjustments to, Lot lines and Easements on real property that has been previously platted. Plats that indicate Lot line adjustments of any kind affecting Open Space require the review, consideration and written approval of the Owner of the Open Space prior to Final Plan Approval of an Application.

4-403 Plat notes may apply to all property in the Town, or may be specific to a Lot due to its location (i.e., Ridge Line Standards, Wetlands, certain design zone covenants), its zoning designation (i.e., the EHR), or the purpose of the replat (i.e., vacate existing Easements).

SECTION 4-5 REVIEW STANDARDS

4-501 In addition to demonstrating compliance with the provisions of Article 4, the following standards and requirements shall be used to evaluate rezoning and replat requests. It shall be the burden of the Applicant to demonstrate that submittal material and the proposed Development substantially complies with the following standards and requirements or demonstrates that one or more of them are not applicable.

- (1) The Replat/Rezone proposed is generally consistent with the underlying purposes and goals of the LUO and the Design Regulations.
- (2) The proposed replat/rezone is compatible with the surrounding environment, neighborhood and area relative to, but not limited to, scale, bulk, Building height, buffer zones, character, and orientation and shall not unreasonably affect existing land Uses and the future Development of the surrounding neighborhood and area.
- (3) Adequate public facilities and services are available to serve the proposed replat/rezone.
- (4) The proposed replat/rezone shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion.

SECTION 4-6 PLANNED UNIT DEVELOPMENT

4-601 PURPOSE

Planned Unit Development (PUD) is a review process that, upon approval, results in a detailed plan that is the basis for Development of a particular property. The purpose of the PUD Review Process is to permit variations from the strict Application of certain standards of this LUO and the Design Regulations in order to allow flexibility for landowners to creatively plan for the overall Development of their land and to achieve a more desirable environment than would be possible through the strict Application of this LUO and the Design Regulations. Specifically, it is the purpose of the PUD Review Process to allow the following:

- (1) A creative approach to the Development and Use of land and related physical facilities to produce better Developments and to obtain amenities for residents of the PUD and the public in general.
- (2) A landowner variations from certain requirements of this LUO and the Design Regulation that are applicable to the land provided such variations will result in benefits for the community.

4-602 ELIGIBLE PROPERTY

An Application for a PUD may be made for any land located in the Town except for lands with Zoning Designations of Sub-dividable Duplex and Non-Sub-dividable Duplex and located in the /Sub-dividable Duplex/Non-Sub-dividable Duplex Zone District. An Application may be made for a single parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners to be developed as a unified plan for a number of Dwelling Units; residential accommodations; public, municipal, Commercial, educational, recreational or Industrial Uses; or any combination of the foregoing.

4-602-1 CONTIGUOUS

When applied to parcels of land, "contiguous" shall mean the lands have a common border and adjoin each other on at least one common property boundary. For the purposes of this definition, a public right-of-way, Easement, or Open Space shall be considered a common property boundary for properties separated only by right-of-way, Easement or Open Space.

4-602-2 PUD APPLICATION

An Application for a PUD may be filed by any Owner of land to be included in the PUD or his or her Agent or Duly Authorized Representative. The Application shall be made on a form provided by the Department of Community Development and shall include, but not be limited to, all information requested on the Application form provided to the Applicant by the Department of Community Development.

4-603 OVERVIEW OF THE STEPS IN THE PUD REVIEW PROCESS

A PUD Application shall be reviewed pursuant to the Process and standards of this Section 4-6.



4-604 PRE-APPLICATION CONFERENCE

The Applicant shall attend a pre-Application conference with the Department of Community Development prior to submission of a PUD Application to determine compliance with the LUO and Design Regulations and to obtain guidance for preparing the PUD Applications. During the pre-Application conference, the Planning Staff will explain the procedural requirements, explain the public notice requirements, provide the Applicant with an Application package and establish the applicable fees.

4-605 REVIEW OF PUD APPLICATIONS AND REFERRAL

All PUD Applications shall be thoroughly reviewed by the Department of Community Development to determine whether the Application conforms to the requirements of this LUO and the Design Regulations. A PUD Application may, as necessary, be referred to any public utility, or any other agency or organization deemed appropriate to complete the review (i.e., the Telluride Fire Protection District or San Miguel Power Association, KN Energy, Quest, etc.). A written report summarizing any reviewing agency comments, public comments, and staff comments shall be completed by the Department of Community Development and distributed to the reviewing body and the Applicant.

4-606 CONCEPTUAL PUD PLAN REVIEW BY DRB AND TOWN COUNCIL

4-606-1 PURPOSE

The purpose of Conceptual PUD Plan Review is to provide the DRB, the Town Council, the Applicant and the public an opportunity to engage in an exploratory discussion of a Development proposal, to raise issues and concerns, and to examine alternative approaches to Development of the property.

4-606-2 SUBMITTAL REQUIREMENTS

Conceptual PUD Plan Review materials to be submitted shall be those included in the Conceptual PUD Plan Application form that shall be provided to an Applicant by the Department of Community Development during the pre-Application conference. The Conceptual PUD Plan Application shall contain a minimum of three (3) development design concepts for review by the Design Review Board. This submittal requirement is subject to the Application Review Process set forth in Section 4-605 of this LUO.

4-606-3 PUBLIC NOTICE REQUIREMENTS

Public notice that the DRB and the Town Council will conduct public hearings to consider an Application for a Conceptual PUD Plan shall be provided as specified in Section 3-4 of this LUO. Only one public notice will be required as long as both the DRB and Town Council public hearing dates are included in the public notice.

4-606-4 DRB AND TOWN COUNCIL ACTION

The DRB, after proper public notice, shall consider an Application for a Conceptual PUD Plan at a public hearing and the DRB shall recommend that the Application be continued for additional Conceptual Review, denied, approved, or approved with conditions. The Town Council, after proper public notice, shall consider the Application and the DRB's recommendation at a public hearing. The Town Council shall either deny the Application or approve the Application to proceed to Sketch PUD Plan Review by the DRB. Approval to proceed to Sketch PUD Plan Review of the Conceptual PUD Plan by the Town Council shall constitute authorization for the Applicant to prepare and submit a Sketch PUD Plan in accordance with the representations made by the Applicant and the conditions applied to the Conceptual PUD Approval by the DRB and the Town Council. Conceptual PUD Plan Approval by the Town Council shall be effective for a maximum period of twelve (12) months, unless Town Council grants an extension of time. A Conceptual PUD Plan shall not constitute a Site Specific Development Plan for purposes of vesting a property right.

4-607 SKETCH PUD PLAN REVIEW

4-607-1 PURPOSE

Following the Town Council's review of a Conceptual PUD Plan Application and recommendation to proceed to Sketch PUD Plan Review (unless Conceptual PUD Plan Review has been waived by the mutual agreement of the Planning Staff and the Applicant), the DRB, after proper public notice, shall hold a public hearing to consider the Sketch PUD Plan Application. The purpose of Sketch PUD Plan Review is for the Applicant to formulate detailed, properly designed/engineered solutions to the issues and concerns identified during Conceptual PUD Plan Review and to address, in a detailed manner, all other issues relevant to the Sketch PUD Plan.

4-607-2 SUBMITTAL REQUIREMENTS

Sketch PUD Plan Review materials to be submitted shall be those included in the Sketch PUD Plan Application form which shall be provided to an Applicant by the Department of Community Development during the pre-Application conference. This submittal requirement is subject to the Application Review Process set forth in Section 4-605 of this LUO.

4-607-3 PUBLIC NOTICE REQUIREMENTS

Public notice that the DRB will conduct a hearing to consider an Application for a Sketch PUD Plan shall be provided as specified in Section 3-4 of this LUO.

4-607-4 DRB ACTION

The DRB, after proper public notice, shall consider an Application for a Sketch PUD Plan at a public hearing and the Application shall be continued for additional Sketch Plan Review, approved, approved with conditions, or denied. Approval of the Sketch PUD Plan shall constitute authorization for the Applicant to prepare and submit a Final PUD Plan in accordance with the representations made by the Applicant and the conditions applied to the Sketch PUD Plan Approval by the DRB. Sketch PUD Plan Approval shall be effective for a maximum period of twelve (12) months, unless the DRB grants an extension of time. A Sketch PUD Plan shall not constitute a Site Specific Development Plan for purposes of vesting a property right. Denial of a Sketch PUD Plan by the DRB may be appealed to the Town Council pursuant to and in accordance with Section 2-8 of this LUO within (10) ten days of the date of the DRB meeting at which DRB voted to deny.

4-608 FINAL PUD PLAN REVIEW

4-608-1 PURPOSE

Following the DRB's approval of a Sketch PUD Plan Application, the DRB, after proper notice, shall hold a public hearing to consider the Final PUD Plan Application. The purpose of Final PUD Plan Review is for the Applicant to address, in a detailed manner, all issues and concerns raised during the Sketch PUD Plan Review.

4-608-2 SUBMITTAL REQUIREMENTS

Final PUD Plan Review materials to be submitted shall be those included in the Final PUD Plan Application form which shall be provided to an Applicant by the Department of Community Development during the pre-Application conference. This submittal requirement is subject to the Application Review Process set forth in Section 4-605 of this LUO.

4-608-3 PUBLIC NOTICE REQUIREMENTS

Public notice that the DRB will conduct a hearing to consider an Application for a Final PUD Plan shall be provided as specified in Section 3-4 of this LUO. With Staff approval, the Applicant may include notification of both the DRB Final PUD Plan Review and Final PUD Plan Review by the Town Council pursuant to Section 3-4 in one public notice.

4-608-4 DRB ACTION

The DRB, after proper public notice, at a public hearing shall consider the following: an Application for a Final PUD Plan, all relevant materials and testimony, and whether the Application complies with the provisions of this Section 4-6. Following closure of the public

hearing, the DRB shall, by resolution, recommend to the Town Council that the Application either be continued for additional Final Plan Review, approved, approved with conditions or denied. Final PUD Plan Approval by DRB shall be effective for a maximum period of twelve (12) months, unless the DRB grants an extension of time. A Final PUD Plan recommended for approval by the DRB shall not constitute a Site Specific Development Plan for purposes of vesting a property right. A recommendation of denial of a Final PUD Plan Application by the DRB shall not prohibit an Applicant from submitting a Final PUD Plan Application to the Town Council for consideration.

4-609 TOWN COUNCIL FINAL PUD PLAN REVIEW

4-609-1 PURPOSE

Following the DRB's recommendation for approval or denial of a Final PUD Plan Application, the Town Council, after proper public notice, shall hold a public hearing to consider the Final PUD Plan Application at either a regular or special Town Council meeting.

4-609-2 SUBMITTAL REQUIREMENTS

Town Council Final PUD Plan Review materials to be submitted shall be those included in the Town Council Final PUD Plan Application form which shall be provided to an Applicant by the Department of Community Development during the pre-Application conference. This submittal requirement is subject to the Application Review Process set forth in Section 4-603 of this LUO.

4-609-3 PUBLIC NOTICE REQUIREMENTS

Public notice that the Town Council will conduct a hearing to consider an Application for a Final PUD Plan shall be provided as specified in Section 3-4 of this LUO. The Applicant may include notification of both the DRB Final PUD Plan Review pursuant to Section 3-4 above and Final PUD Plan Review by the Town Council in one public notice, as long as both the DRB and Town Council public hearing dates are included in the public notice.

4-609-4 TOWN COUNCIL ACTION

The Town Council, after proper public notice, shall consider the following: the Application, DRB's recommendation, all relevant materials and testimony, the proposed PUD Development Agreement, and whether the Application complies with the provisions of this Section 4-6. Following closure of the public hearing, the Town Council shall either approve, approve with conditions or deny the Application. The Town Council shall be the final decision-making body on a PUD Application. The decision of the Town Council shall be in the form of a resolution and shall be recorded in the records of the San Miguel County Clerk and Recorder.

4-609-5 VESTING

Approval of a Final PUD Plan Application by the Town Council shall constitute a Site Specific Development Plan for purposes of vesting a property right, and as such is subject to the vested rights provisions of Article 6. Final PUD Plan Approval shall remain in effect for three (3) years following the date of the Town Council Resolution approving the PUD, unless the time frame is extended by Town Council.

4-610 PUD DEVELOPMENT AGREEMENT

Upon approval of a Final PUD Plan Application by the DRB, the Applicant, as part of the Town Council Final PUD Plan submittal requirements, shall submit a proposed PUD Development Agreement to the Department of Community Development setting forth, at a minimum, the approved or Permitted Uses, Densities, Development, LUO and Design Regulations variations, rezonings, Density transfers, replats, requirements for the construction of any public improvements and facilities, timetable and schedule of Development which ensures the logical and efficient Development of the PUD, phasing requirements and conditions, any conditions of approval, and a statement establishing a vested right pursuant to Article 6, as amended. The PUD Development Agreement shall be referred to and considered by the Town Council for approval during the public hearing provided in Section 3-4 above. After the approval of a Final PUD Plan Application by the Town Council, the Applicant shall submit a Final PUD Development Agreement, together with any maps, plats or other documents that are to be recorded, to the Planning Staff and Town Manager for review and approval. The Final PUD Development Agreement shall be executed by the Owner of the property, the Applicant, the Town Manager, and the Mayor and shall be recorded in the records of the San Miguel County Clerk and Recorder at the Applicant's expense. PUD Development Agreements shall run with and be a burden upon the land to which they apply.

The final recorded PUD Development Agreement shall constitute a "Development Permit" for a PUD.

4-611 BUILDING PERMIT

An Applicant may obtain a Building Permit for Development or construction as authorized under the Final PUD Plan Approval by Town Council only after recordation of the PUD Development Agreement.

4-612 ZONING AND LAND USES

The land Uses permitted in a PUD shall be limited to those Uses that are allocated to the property under the property's underlying Zoning Designations and Zone District and pursuant to the Official Land Use and Density Allocation for All Land within the Town of Mountain Village, Colorado recorded on October 6, 1995, at Reception No. 301133 in the records of the San Miguel County Clerk and Recorder, as amended from time to time (Official Land Use and Density Allocation List), unless other zoning and Uses are specifically authorized and approved by the Town Council in a PUD Development Agreement. A separate Zoning/Rezoning Application pursuant to Articles 3 and 4 of this LUO is not required. All zoning/rezoning requests contained in a PUD Application shall be reviewed for compliance with the provisions of this Section 4-6.

4-613 DENSITY

The Density permitted in a PUD shall be limited to the Density allocated to the property as set forth in the Land Use and Density Allocation, unless an increase in Density is specifically authorized and approved by the Town Council. An increase in Density shall require the transfer of Density to the property from the Density Bank or other approved source from within the Town boundaries, except to allow for the creation of additional Employee Housing, subject to the Employee Housing Restriction. A separate Density Transfer Application pursuant to Article 4 of this LUO is not required. All Density transfer requests contained in a PUD Application shall be reviewed for compliance with the provisions of Section 4-6 of this LUO.

4-614 REPLATTING

A request for a Replat may be considered as part of a PUD Application. A separate Replat Application pursuant to this LUO is not required. All Replat requests contained in a PUD Application shall be reviewed for compliance with the provisions of Section 4-6 of this LUO.

4-615 DEVELOPMENT AND DESIGN STANDARDS

A PUD shall comply with all LUO and Design Regulations provisions applicable to the property. An LUO and/or Design Regulation standard or requirement may be varied and a request for rezoning, Density transfer or replat may be granted when the Town Council, with consideration of the recommendation of the DRB, finds that (i) the PUD achieves one (1) or more of the applicable purposes listed in Section 4-617, and (ii) the resulting Development will be consistent with the provisions of Section 4-617. Each Application shall be reviewed on its individual merits in relation to the criteria contained in Section 4-6.

4-616 COMMUNITY PURPOSES

The following purposes shall be used in determining whether any of the requirements of the LUO and Design Regulations should be varied or a rezoning, Density transfer, or replat request should be granted for a PUD. Achieving one or more of the following purposes does not, by itself, guarantee that a variation or rezoning, Density transfer, or replat request will be granted.

4-616-1 Provision of additional affordable or Employee Housing.

4-616-2 Development of, or a contribution to the Development of either (i) public facilities, such as public parking and transportation facilities, public recreation facilities, public cultural facilities, and other public facilities or (ii) public benefits as either may be identified by the DRB or the Town Council. The public facilities or source of the public benefits may be located within or outside of the PUD but shall be public facilities or public benefits that meet the needs not only of the PUD residents or property Owners, but also of other residents, property Owners and visitors of the Town.

4-616-3 Provision of land to be used for public facilities or Employee Housing.

4-617 REVIEW STANDARDS

In addition to demonstrating compliance with the provisions of Section 4-616, the following standards and requirements shall be used to evaluate rezoning, Density transfer, replat requests, and variations from the provisions of the LUO and the Design Regulations for a PUD. It shall be the burden of the Applicant to demonstrate that submittal material and the proposed PUD Development substantially complies with the following standards and requirements or demonstrates that one or more of them are not applicable:

- (1) The Development proposed for the PUD is generally consistent with the underlying purposes and goals of the LUO and the Design Regulations.
- (2) The Development proposed for the PUD represents a creative approach to the Development and Use of land and related physical facilities to produce a better Development than would otherwise be possible under the strict Application of the requirements of the underlying Zoning

Designation, Zone District and Land Use and Density and will provide amenities for residents of the PUD and the public in general.

- (3) The Development proposed for the PUD is designed to be compatible with the surrounding environment, neighborhood and area relative to, but not limited to, architectural design, scale, bulk, Building height, buffer zones, character, and orientation and shall not unreasonably affect existing land Uses and the future Development of the surrounding neighborhood and area.
- (4) The landscaping and public spaces proposed for the PUD shall provide sufficient buffering of Uses from one another to minimize adverse impacts and shall create attractive public spaces consistent with the character of the surrounding environment, neighborhood and area.
- (5) The Development proposed for the PUD provides sufficient parking and traffic circulation.
- (6) Each phase (if any) of the Development proposed for the PUD shall be self-sufficient and not dependent upon later phases. Phases shall be structured so that the failure to develop subsequent phases will not have any adverse impacts on the PUD, the surrounding environment, neighborhood and area.
- (7) If the development proposes a PUD for a Single Family Lot, special site characteristics must exist that justify the development of the Single Family Lot as a PUD AND the Single Family Lot must be: either (i) located adjacent to or within close proximity to either the Village Center or Multi Unit Lots OR (ii) in a location sufficiently buffered from Single Family Lots. .

4-618 GUARANTEE OF PUBLIC FACILITIES AND IMPROVEMENTS

An Applicant shall be responsible for the construction of any public facilities or improvements that are necessary for the Development of the PUD or that are required as a condition of approval of the PUD. An Applicant shall also be responsible for submitting a guarantee for the construction of such public improvements and facilities in a form and amount satisfactory to the Town. The guarantee shall be contained in the PUD Development Agreement and shall obligate the Applicant to construct the public improvements and facilities required by the Town according to a specific schedule.

4-618-1 SECURITY

The Applicant shall secure the faithful and diligent performance of its obligations with a pledge of security sufficient to provide a reasonable guarantee of not less than one hundred twenty percent (120%) of the current estimated cost of the public improvements and facilities described in the PUD Development Agreement, which estimate shall be approved by the Town Building Official.

4-618-2 FORM OF SECURITY

The pledge of security may, at the option of the Town, be in the form of a security bond, an irrevocable letter of credit or other financial surety from a financially responsible lending institution, an adequate construction loan commitment on which the Town is permitted to draw, or any combination of the above satisfactory to the Town provided that the Town shall have the unconditional and irrevocable right upon default by the Applicant to withdraw or acquire funds upon demand to partially or fully complete and/or pay for any of the public improvements or facilities. In no case shall the Town be obligated, pursuant to any PUD Development Agreement, to complete any public improvements or facilities due to the

Applicant's default if the security should be determined inadequate.

4-618-3 AGREEMENT TO REPAIR

The PUD Development Agreement shall contain language by which the Applicant agrees to repair any existing improvements or facilities damaged during construction and such other items as the Town Council deems appropriate.

4-618-4 PARTIAL RELEASE OF SECURITY

The PUD Development Agreement may provide for the partial release of security as portions of the public improvements or facilities are completed, provided that no such partial or final release shall be granted until the improvements guaranteed have been inspected and accepted by the Building Official.

4-618-5 WARRANTY

The Applicant shall warrant the quality, workmanship and function of all public improvements and facilities for a period of two (2) years, or until July 1 of the year during which the second winter terminates after acceptance by the Town, whichever is greater.

4-618-6 DEFAULT

In addition to any other remedies, in the event of default by the Applicant under the terms of the PUD Development Agreement, no Building Permit or Certificate of Occupancy shall be issued within the PUD until the default is corrected.

4-619 AMENDMENT PROCESS

An Applicant may amend an approved Final PUD Plan according to the following Process. The Application for an amendment shall be made on a form provided by the Department of Community Development and shall include, but not be limited to, all information requested on the Application form provided to the Applicant by the Department of Community Development. Any proposed amendment shall only be approved if it is determined that the amendment complies with the requirements and standards of this Section 4-6.

4-619-1 MINOR AMENDMENTS

All requests for amendments which are determined to be "minor" in nature as set forth on the Application for PUD Amendments provided to the Applicant by the Department of Community Development can be approved by the Planning Staff or by the Planning Staff and DRB Chairman based on a determination of the necessary procedure for the amendments by the Planning Staff.

4-619-2 MAJOR AMENDMENTS

All requests for amendments, which are not determined to be minor in nature by Staff shall be reviewed in accordance with the Process described in Section 4-603 and Section 4-608 above for Final PUD Plan Review by the DRB and Town Council.

4-619-3 FORM OF AMENDMENT

Approved amendments shall be documented in an amendment to the original PUD Development Agreement and on any affected maps or plats that shall be executed by the Applicant and the Town Manager and Mayor.

ARTICLE 5 VARIANCES

SECTION 5-1 APPLICATIONS FOR VARIANCES

5-101 APPLICATION

An Application for a Variance from the LUO shall be submitted to the Department of Community Development together with the Application which the Variance is associated (i.e. Replat etc.). The information submitted for the Variance shall include, but not be limited to, all information requested on the Application form, along with applicable fees, provided to the Applicant by the Department of Community Development.

5-102 Any required approvals from other agencies for a Variance must be obtained and submitted to the Department of Community Development with the Application for a Variance. Staff will inform the Applicant at the pre-conference hearing of what other approvals are necessary for the applied for Variance.

5-103 The Applicant shall be responsible for all fees associated with the review of the Application by any outside agency or organization.

5-104 The Applicant shall be responsible for all legal fees incurred by the Town in the processing and review of the Application.

SECTION 5-2 NOTICING

5-201 The Variance Application will run in conjunction with the associated Application and must be clearly detailed in any required noticing of the associated Application.

SECTION 5-3 GRANTING OF VARIANCES

5-301 Variances may be granted at the discretion of Town Council after the DRB has reviewed and made a recommendation.

SECTION 5-4 CONSIDERATION OF A VARIANCE

5-401 Town Council may consider a Variance by reason of exceptional narrowness, shallowness or shape of the specific piece of property at the time of enactment of this Land Use Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such piece of property, provided the following conditions:

1. The strict Application of the Design Regulation(s) would create a practical difficulty upon the Owner of the property;
2. The Variance granted is the minimum necessary to alleviate such practical difficulty upon the Owner of said property;
3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Land Use Ordinance or Design

Regulations;

4. The Variance does not have an unreasonable negative impact on the surrounding neighborhood;
5. Cost or inconvenience alone shall not be sufficient grounds to grant a Variance.

SECTION 5-5 SUBMITTAL REQUIREMENTS

5-501 Submittal requirements shall be those outlined in the Variance Application form.

SECTION 5-6 AUTHORITY TO GRANT DESIGN REGULATION VARIANCES

5-601 Variances to Article 5 (Site Planning); Article 8 (Architectural Requirements), except Section 8-1; Article 9 (Landscaping and Site Amenities); Article 10 (Signage); Article 11 (Restaurant and Commercial Kitchen Facilities); Article 12 Freight Elevator; Article 15 (Industrial Uses) except Sections 15-2 15-3; Article 18 (Commercial and Ground Level Plaza Guidelines) except Sections 18-204-5 and 18-303; and Article 20 (Construction Regulations) of the Design Regulations may be granted at the discretion of the DRB provided that the criteria set forth in Section 3-2 of the Design Regulations have been met. Variances to Article 7 (Parking Regulations, except for variance for parking in excess of requirement), Section 8-1 (Building Height Limitations), Section 15-2 and 15-3 (height and parking requirements for Industrial Uses) may only be granted at the discretion of the Town Council after DRB has reviewed and made a recommendation thereon, pursuant to Article 5 of the LUO. Town Council has the final authority to grant or deny a requested LUO Variance provided that the criteria set forth in Section 3-2 of the Design Regulations have been met.

ARTICLE 6 VESTED PROPERTY RIGHTS

SECTION 6-1 PURPOSE

The purpose of this Section is to provide procedures and standards for review and approval of vested property rights in accordance with C.R.S. § 24-68-101-106 ("Vested Property Rights Statute"), and to effect local control over the creation of vested property rights to the fullest extent permitted under the laws of the State of Colorado and the ordinances of the Town of Mountain Village.

SECTION 6-2 DEFINITIONS

6-201 SITE SPECIFIC DEVELOPMENT PLAN

"Site Specific Development Plan" shall mean only one of the following:

- a. A final planned unit development plan (PUD); or
- b. A final plat; or
- c. A final application for Density Transfer; or
- d. A final plan approval pursuant to the Design Regulations that requires DRB review and action; or
- e. Any application in the LUO that requires either DRB or Council review and approval where Council find that a site specific development plan and extended vesting will

further the public interest.

Sketch plans, preliminary plats, conceptual and sketch PUD's, or other applications that are only an initial or intermediate step in an overall approval process that require multiple steps shall not constitute a Site Specific Development Plan.

6-202 VESTED PROPERTY RIGHT

"Vested Property Right" means the right to undertake and complete the Development and Use of property under the terms and conditions of a Site Specific Development Plan, subject to the appropriate Design Review Process for the property.

SECTION 6-3 NOTICE HEARING

No Site Specific Development Plan shall be approved by the Town Council until after a public hearing preceded by written notice of such hearing in accordance with Section 3-4 of this LUO. Such notice may be combined with the notice for any other hearing to be held in conjunction with the hearing on the Site Specific Development Plan for the subject property.

SECTION 6-4 APPROVAL – PROCESS AND CONDITIONS

6-401 PROCESS

The process for approval of a Site Specific Development Plan shall be the same as for approval of the applicable zoning application pursuant to Article 4 of this LUO. If a Site Specific Development Plan is requested for an application that is approved by the DRB and no Council approval is required, the DRB shall make a recommendation to the Council on the requested Site Specific Development Plan and extend vesting up to 5 years at the discretion of the Council (projects that have special circumstances or development consideration may be approved beyond 5 years). The Council shall conduct a hearing on the application with public notice of such hearing as provided in Section 5-2. Only a landowner or his or her designated representative may apply for approval of a Site Specific Development Plan for the purpose of vesting property rights.

Each document that is a part of a Site Specific Development Plan shall contain the following language:

Approval of this Site Specific Development Plan may create a vested property right pursuant to C.R.S. § 24-68-101-106 and subject to the Town of Mountain Village's LUO.

Failure to contain this statement shall invalidate the creation of the vested property right.

6-402 COSTS

In addition to any and all other fees and charges imposed by this LUO or the Design Regulations, the Applicant for approval of a Site Specific Development Plan shall pay all costs the Town incurs relating to the review and/or approval of a Site Specific Development Plan, including the publication of notices, the conduct of public hearings, and the reasonable attorneys' fees the Town incurs during such process.

6-403 CONDITIONS OF APPROVAL

Town Council's approval of any Site Specific Development Plan may include such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare, and

the failure to abide by any such terms and conditions may, at the option of the Town Council after public hearing, result in the forfeiture of vested property rights.

6-404 DATE OF APPROVAL

A Site Specific Development Plan shall be deemed approved upon the effective date of the final Town Council action approving the plan. If amendments to a Site Specific Development Plan are subsequently approved, the effective date of the Site Specific Development Plan shall remain the date the original Site Specific Development Plan was deemed approved, unless the Town Council specifically finds otherwise and incorporates that finding in its approval of the amendment.

6-405 PUBLICATION

Upon approval of a Site Specific Development Plan, the Applicant shall be responsible for publishing a notice describing generally the type and intensity of Use approved, the specific parcel or parcels of property affected, and stating that a vested property right has been created. The notice shall be published once in a newspaper of general circulation within the Town not more than fourteen (14) days after approval of the Site Specific Development Plan.

6-406 DURATION

A property right, which has been vested as provided for in this Section, shall remain vested for a period as set for by Town Council.

6-407 SITE SPECIFIC DEVELOPMENT PLAN SUBJECT TO LUO, DESIGN REGULATIONS, AND BUILDING CODES

Approval of a Site Specific Development Plan shall not constitute an exemption from or a waiver of any provisions of this LUO, the Design Regulations, or Building Codes pertaining to the development and Use of property within the Town. The provisions of all duly adopted zoning ordinances, other land use and Development ordinances, regulations, comprehensive plans, and updates thereof shall apply in accordance with their terms to Development under a Site Specific Development Plan except as otherwise provided in the Vested Property Rights Statute.

This Section is intended only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective.

6-408 EXCEPTIONS

6-408-1 A vested property right, once established, shall preclude any zoning or land use action by the Town of Mountain Village which would alter, impair, or diminish the development or use of the property as set forth in an approved Site Specific Development Plan, except under the following conditions:

1. With the consent of the Applicant; or
2. Upon the discovery of the natural or man-made hazards on or in the immediate vicinity of the property which could not reasonably have been discovered at the time of vested rights approval and which, if not corrected, would pose a serious threat to the public health, safety, and welfare; or
3. To the extent that compensation is paid, as provided in Title 24, Article 68, C.R.S.

6-409 The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and applicable to all property subject to land use regulation by the Town, including, but not limited to, fee assessments and building, fire, plumbing, electrical, mechanical, water and sewer codes.

ARTICLE 7 ANNEXATION

SECTION 7-1

7-101 In annexation proceedings, the Town may exercise all constitutional and statutory powers, all powers express and inherent in the Town Charter, and any other powers it may lawfully assume. All annexations to the Town shall meet the requirements and comply with the procedures set forth in the Municipal Annexation Act of 1965, as amended, C.R.S. ' 31-12-101, et seq.

7-102 All property annexed into the Town shall be required to apply for membership in MVOA.

7-103 Zoning of land in the process of annexation shall be considered preliminary until annexation is completed. Final zoning may be accomplished simultaneously with annexation but must be accomplished no later than ninety (90) days after the effective date of annexation, notwithstanding any judicial appeal of the annexation. New zone districts and zoning designations, including those permitting mixed use, may be created as part of the zoning process for annexed property. Upon approval by the Town Council, such new zone districts and zoning designations shall become part of this Ordinance and shall be the zoning applicable to the annexed property or designated portion thereof.

ARTICLE 8 ENVIRONMENTAL IMPACT AREAS

SECTION 8-1 WETLANDS

8-101 It is the goal of the Town to preserve and enhance Wetlands and riparian habitat within the Town boundaries. All plats submitted to DRB and the Town for approval must identify Wetlands, if any, or note there are no Wetlands on the property. Wetlands delineation shall be performed by qualified consultants; however, written verification of the delineation from the United States Army Corps of Engineers (USACE) is required.

8-102 All Development Applications submitted to the DRB must identify Wetlands, if any, or note there are no Wetlands on the property on the topographic survey and Site Plan. When Wetlands, streams or ponds are identified on the topographic survey, it shall be the responsibility of the property Owner to ensure that these areas are not impacted by any Development of the Building Site where Wetlands are present. Development, to the greatest extent possible, shall occur in a manner that preserves and protects existing Wetlands. Prior to any Development on Site, a Wetlands report and letter of verification from the USACE must be submitted to the Staff.

ARTICLE 9 EMPLOYEE HOUSING

SECTION 9-1 EMPLOYEE HOUSING RESTRICTION (EHR)

9-101 Lots or Dwelling Units zoned Employee Apartment, Employee Condominium, Employee Single Family or Employee Dorm (collectively Employee Housing) are restricted to occupancy exclusively by persons who are employed or can show intent to be employed within the Telluride R-1 District and their spouses and children. This restriction on use and occupancy constitutes a covenant that runs fifty (50) years from the date of recordation with the title to the property as a burden thereon and shall be binding on the Owner and on the heirs, personal representatives, assigns, lessees, licensees and any transferee of the Owner. The duration of this restriction and covenant shall extend for an initial period of fifty (50) years, and at the option of the Town Council, or its designee, may be extended for an additional period of fifty (50) years after public hearing and comment on the proposed extension. This restriction and covenant shall be administered by the Town Council, or its designee, and shall be enforceable by any appropriate legal or equitable action including, but not limited to, specific performance, injunction, abatement, or eviction of non-complying Owners, users or occupants, or such other remedies and penalties as may be provided by Colorado law or the ordinances of the Town.

9-102 Development shall be in accordance with the Design Regulations, except that the DRB may, at its discretion, vary the requirements to allow for more affordable housing to be built.

ARTICLE 10 SUPPLEMENTAL REGULATIONS

SECTION 10-1 SOLID FUEL BURNING DEVICES

10-101 In order to install a solid fuel-burning device (i.e., interior fireplace, wood burner or fireplace insert) in any structure in the Town, the Owner must have or obtain a permit from the Town. The Town will issue no more than the one hundred (100) permits previously authorized and sold by Metro Services plus any permits issued by San Miguel County prior to June 4, 1992. The Town will also recognize and permit all solid fuel-burning devices installed prior to June 4, 1992, which did not require a permit from San Miguel County. Only one (1) solid fuel-burning device is allowed per permit.

10-102 All fireplaces designed to burn wood shall be constructed with a dry gas line to allow for conversion to gas in the future should the permit be revoked or transferred to another location or should air quality in the Town deteriorate to an unacceptable level.

10-103 No coal may be burned within the Town except charcoal used only for cooking purposes.

10-104 The emission limit for solid fuel-burning devices shall be one hundred fifty percent (150%) of the emission rate for devices having the lowest emission rate under normal operating conditions, provided that such device is determined by the Town to be safe, durable, reasonable, attractive, commercially available and within reasonable expense.

10-105 The Town may enforce rules and regulations, as amended from time to time, which establish the following:

- a) Emission standards for solid fuel-burning devices;
- b) A Chimney Sweep Program;
- c) Annual inspection of all solid fuel-burning devices;
- d) Limitations on use, should air quality standards deteriorate.

10-106 No outdoor, open, wood-burning fires shall be lighted or permitted on any property except in a contained barbecue unit while attended. No open fires or barbecue units shall be lighted or permitted on any property within the Village Center except when in conjunction with a Special Event on Village Center plazas or with specific approval from the Town. Such Special Event taking place on Village Center plazas shall require the approval of the Town.

ARTICLE 11 PROHIBITION OF RECREATIONAL VEHICLES, CAMPING, HORSES AND NON-DOMESTICATED ANIMALS

SECTION 11-1

Horses, all-terrain vehicles, snowmobiles, motor bikes, golf carts or other motorized vehicles shall not be allowed within or on property except as otherwise specifically permitted by rules and regulations of the Town of Mountain Village, the State of Colorado, and Federal transportation rules.

11-101 Exception: Those motorized vehicles specifically permitted for the uses and activities deemed necessary by TSG and/or the Town for the safe and efficient operation of the ski area, golf course, hotel and accommodations companies luggage and maintenance, are allowed. Horses are allowed within or on property only upon issuance of an Equestrian Special Use Permit pursuant to Article 15 of this LUO. Horses are only allowed on Open Space on approved developed equestrian trails with the written permission of the Owner of the Open Space.

11-102 No trailer, trailer house, mobile home, or recreational vehicle may be allowed on private property and used as a residence, either permanent or temporary. Camping for the purpose of residing or for recreational purposes on private or public property within the Town of Mountain Village is similarly prohibited unless granted through a Camping Permit.

SECTION 11-2

Non-domesticated animals shall not be allowed to be kept within or on property except as otherwise specifically permitted by rules and regulations of the Town of Mountain Village and the State of Colorado. Domesticated animals are defined as (1) any animal normally domesticated and kept inside a dwelling including but not limited to parakeets, canaries, aquarium fish; (2) any dog or cat not otherwise regulated by Town of Mountain Village ordinances.

ARTICLE 12 FOREST HEALTH, FIRE MITIGATION AND TREE PROTECTION POLICY

Section 12-1 Forest Health Policy

The Mountain Village Forests are a valuable resource and commodity for the Mountain Village community. Many threats to the health of Mountain Village Forests are present, such as insects,

diseases, drought and wildfires. It is the policy of the Town of Mountain Village to be good stewards of the forest and promote Mountain Village Forests' health, vitality and diversity for generations to come.

Section 12-2 Fire Mitigation Policy

Wildfires constitute a real threat to forests, Improvements and Structures within the Town of Mountain Village. It is the policy of the Town of Mountain Village to encourage all Lot Owners, including those with existing Structures to, review the health and wild fire potential that exists on their Lot and, subject to Section 12-4 on Tree Removal Procedures, reduce wildfire risk that exists on their Lot and develop defensible space in accordance with the Defensible Space Zones as set forth in Section 12-3. In the event that a Lot Owner with an existing Structure submits an Application to bring their Lot in compliance with the Defensible Space Zones, and such Application receives the approval of the TOMV Forester, the Application may be approved at a Staff level.

Section 12-3 Wild Fire Mitigation

12-301 The following types of Development and Redevelopment shall require the property to create and implement a wildfire mitigation plan in accordance with this Article:

12-301-1 All new Building construction that will create a habitable space, including but not limited to commercial buildings that are occupied by employees guests on a regular basis.

12-301-2 Additions that increase a building's habitable floor area or number of stories that have a valuation of \$50,000 or greater.

12-301-3 Any Alteration of the landscaping of a property that has a valuation of \$50,000 or more, including but not limited to the addition of decks, patios, walkways and water features.

12-302 Development and Redevelopment that must prepare a wildfire mitigation plan as required by Section 12-301 shall create and implement a wildfire mitigation plan, with the following plans and information submitted on one plan sheet as a part of the required DRB application:

- A. Tree survey prepared by a Colorado licensed surveyor that shows all dead and live trees that have a caliper of four (4) inches or greater Diameter at Breast Height ("DBH") within Zone 1 and 2. A tree survey is not required for Zone 3.
- B. Proposed Defensible Space Plan based on the Defensible Space Zone requirements in Section 12-304_ that shows all trees to be removed that have a four (4) inch or greater DBH. Such plan should be developed with input from the Community Development Department Staff and/or any appointed Town of Mountain Village Forester, collectively referred to as "Staff".
- C. Proposed landscape plan prepared by a qualified professional pursuant to the Design Regulations.
- D. Existing and finished grades in one foot contours, with such grading based on a survey prepared by a Colorado Licensed Surveyor.
- E. Proposed site plan and associated improvements.
- F. Property lines and dimensions.

12-303 Prior to submitting an Application subject to the Wildfire Mitigation Regulations, an Applicant

shall schedule a meeting with Staff to develop the Defensible Space plan. Staff may require an inspection of the Lot or property affected by the Application to assess forest health. A Defensible Space Plan may also be prepared in consultation with the Colorado State Forest Service or a qualified consultant licensed by the Town.

12-303-1 Town Staff shall review and approve all Defensible Space Plans to ensure they meet the requirements of this Article.

12-304 Defensible Space is defined as an area around a Structure where fuels and vegetation are treated, cleared or reduced to slow the spread of wildfire towards the Structure. The following requirements shall be followed in creating the required Defensible Space plan:

12-304-1 Zone 1 is the area that consists of 15 feet around the Structure as measured from the outside edge of the Structure's eaves, or any Structures such as decks, planters or patios attached to the Structure. The following provisions shall apply in Zone 1:

12-304-1-1 All slash and flammable vegetation as identified by Staff shall be removed from Zone 1.

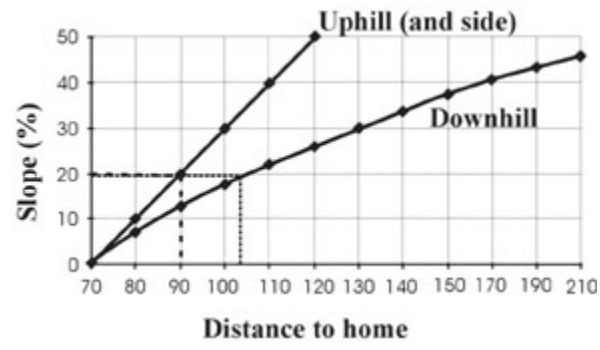
12-304-1-2 All trees and shrubs located within Zone 1 shall be removed.

12-304-1-3 The following exceptions apply to Zone 1:

- A. A tree or shrub may remain within Zone 1, provided the defensible space distance is measured commencing from the tree's drip edge rather than from the building plane (so the tree is considered part of or an extension of the structure), and provided the distance is not limited by a property line.
- B. Flammable vegetation shall be allowed in planters attached to the Structure so long as the placement of such vegetation is not planted directly beneath windows or next to foundation vents and are not adjacent to areas of continuous grass.
- C. Firewood may only be stored on a Lot that has a valid fireplace permit issued from the Town of Mountain Village that meets the following limitations:
 - a. Indoor storage can only occur within an enclosed room that is a part of the primary structure on the Lot.
 - b. Outdoor storage shall only occur in the rear yard;
 - c. Up to ten cubic feet of outdoor firewood storage may be located in Zone 1 or Zone 2.
 - d. Outdoor firewood storage larger than ten cubic feet shall have a minimum 30 foot distance from the structure.
 - e. Outdoor firewood storage shall be screened from view from surrounding lots.

12-304-1-4 In the event Zone 1 encroaches upon the General Easement, the Town shall allow the creation of defensible space as required by this Article.

12-304-2 Zone 2 is the area that extends from the outer edge of Zone 1, for the distance specified in the following table, based on slope, to the Lot line, whichever is less.



12-304-2-1 The following provisions shall apply in Zone 2:

12-304-2-1-1 Live with a Diameter at Breast Height (“DBH”) of four (4) inches or greater shall be spaced with a ten (10) foot crown-to-crown separation. Trees with a DBH of less than four inches and all slash shall be removed from the 10 foot crown-to-crown separation area.

12-304-2-1-2 In Zone 2, all stressed, diseased, dead or dying trees and shrubs, as identified by Staff, shall be removed except for standing dead trees (aka tree snags) that Staff indicates need to be maintained since standing dead trees provide important wildlife habitat.

12-304-2-1-3 Shrubs over 5 feet tall shall have an average spacing of 10 feet from shrub-to-shrub.

12-304-2-2 The following exceptions apply to Zone 2:

- A. Groupings of trees or shrubs may be allowed, provided that all of the crowns in such group of trees or the edge of the shrubs are spaced ten feet from crown-to-crown or from edge of shrub.
- B. Aspens, narrowleaf cottonwoods, willows, and other trees and shrubs listed in CSU Cooperative Extension publication 6.305 Firewise Plant Materials may be spaced closer than the 10 foot crown-to-crown separation as approved by Staff.
- C. Closer spacing of any trees may be allowed by Staff upon a determination that the required 10 foot crown-to-crown spacing would put the remaining trees at undue risk of wind-throw or snow breakage.
- D. Tree removal for the creation of defensible space if such tree removal is determined to be impractical by the Town due to steep slopes, wetland or other environmental constraints, and other mitigation is provided.

12-304-2-3 Trees remaining within Zone 2 shall have branches pruned to a height of 10 feet, but notwithstanding said height requirement, branches need not be pruned to more than 1/3 of the tree height with the following exceptions:

- A. Aspen trees.
- B. Isolated spruce and fir trees.

12-304-2-4 In the event that Zone 2 extends upon the General Easement, the Town shall allow the removal of stressed, diseased, dead or dying trees and shrubs, but reserves the right to approve of any further thinning or pruning of vegetation in Zone 2 as directed by DRB.

12-304-2-5 Chipped wood and small timber may be spread throughout either Zone 2 or Zone 3 as approved by Staff.

12-304-3 Zone 3 is the area extending beyond Zone 2 to the edge of the property subject to Development or Redevelopment. In Zone 3, **all diseased, beetle infested, dead or dying trees, as identified by Staff**, shall be removed except for standing dead

trees (aka tree snags) that Staff indicates need to be maintained since standing dead trees provide important wildlife habitat.

12-304-3-1 For lots greater than five acres in size, Zone 3 shall only be implemented for a distance of 500 feet from the outside edge of Zone 2.

12-305 After the Defensible Space plan has been implemented on a Lot, the owner or developer of such lot shall submit new tree survey to Staff for review and approval. Such tree survey shall be prepared in accordance with Section 12-302(A) to ensure that the Defensible Space plan has been implemented as approved, and that no trees to be saved have been removed.

12-305-1 Prior to the issuance of any certificate of occupancy Staff shall inspect the Lot or property affected by the fire mitigation plan to ensure that such plan has been implemented in accordance with the approved Defensible Space Plan.

12-305-2 The Town will issue a certificate of compliance with the Town's wildfire mitigation requirements upon a positive site inspection.

12-306 Disturbed areas within Zone 1, 2 or 3 shall only be replanted using a short grass, native seed mix approved by the Town using grass seed best management planting practices (application of topsoil or mulch, tilling, netting steeper slopes, etc.)

12-307 Defensible Space shall be maintained by the Property owner as required by this Article.

SECTION 12-4 Tree Preservation and Removal Policy

12-401 The forested areas are one of the character defining features of Mountain Village. It is therefore vitally important to preserve trees that are not removed due to forest health, fire mitigation development in accordance with the policies set forth herein. The following sections detail (1) Best Management Practices ("BMPs") that shall apply to all Development within the Town; and (2) the tree removal policies and procedures.

12-402 Subject to review and approval by Staff or the DRB as applicable, trees and shrubs shall only be removed from a site for:

1. Development and uses as permitted by the LUO and the Design Guidelines
2. Fire Mitigation
3. Forest Management or Forest Health
4. Driveways
5. View Corridors from windows provided the removal of such trees is minimized to the extent practical.
6. Utilities provided it is not practical for the utilities to follow the driveway or other corridors where trees are being removed as allowed by this section.
7. Renewable energy systems provided it is not possible to locate such on the buildings allowed on the property, or within areas where trees are being removed as allowed by this section.
8. Ski area access as may be permitted by the DRB subject to meeting the applicable requirements of the LUO and the Design Guidelines.
9. Potential damage to a structure or other constructed improvement on a property, such

as but not limited to a utility line or utility meter, a tramway or snowmaking equipment. Trees that pose an immediate, emergency hazard may be immediately removed provided photo-documentation is provided to the Town within 2 business days of removal documenting the emergency hazard nature of the tree.

10. Protection of the public health, safety or welfare.

12-402 No tree four (4) inches or greater in DBH located on any property within the Town may be removed, or materially altered without the prior written approval of the DRB or the Building Official and after an inspection by Staff.

12-402-1 All dead or live trees with a diameter of four (4) inches or greater shall be preserved on the site unless Staff or the DRB has approved the removal of such trees as a part of the required Application process.

12-402-2 It is highly encouraged that existing trees on the site that must be removed for one of the activities listed in Section 12-401 be relocated pursuant to the DRB approved landscape plan.

12-403 An application must be submitted to the Town prior to the removal or material alteration of any dead or living tree greater than four (4) inches DBH. Such Application shall include the information and plans as set forth in Section 12-302

12-404 Trees, living or dead, to be removed from the General Easement or Open Space must be marked and field inspected prior to removal.

12-404-1 Trees removed by TSG in the ordinary operation of the ski area or golf course, including without limitation trees removed for utility and snow making installation, are exempt from the requirements of this Article provided notice and information is provided to the Town and the Town determines that the tree removal is part of the ordinary operation of the ski area or golf course. Other tree removal that is deemed by the Town to not be a part of the ordinary operation of the ski or golf course operations requires the submission of an application for review and approval by the Town pursuant to the requirements of this Article.

12-404-2 The TOMV has the right to remove any trees on Town owned Open Space for forest health or fire mitigation provided the trees to be removed have been marked and Staff inspects and approves the proposed tree removal.

12-405 Any tree deemed by Staff to be a hazard to any roadway, adjacent property, gas line, well head, telephone and/or electrical box shall be removed by the owner of the property or the affected utility agency within a reasonable amount of time (as determined by the Town base on the nature of the hazard) after notification. Documentation of the hazard and the Town's approval of the tree removal shall be provided.

12-405-1 In cases of an emergency, hazard trees may be removed without prior Town approval if photo documentation of the hazard is provided to the Town that clearly shows the emergency nature of the tree removal. Such emergency tree removal shall be reported and the required documentation provided within 48 hours of the tree removal.

12-406 Development BMPs All Development within Mountain Village shall use the following BMPs

to protect and preserve trees that will be retained on a project site:

12-406-1 All dead or live trees with a diameter of four (4) inches or greater that are to be saved on a Lot that may be affected by construction shall be protected by placing and maintaining fencing at the tree's drip line. The required construction mitigation plan shall show the location of all required fencing to protect tree in close proximity to grading or other construction activity.

12-406-2 Developers shall use extreme care during grading and excavation to avoid damage or removal of existing trees and shrubs to be retained on a project site, and to preserve their root structures

12-406-2-1 No vehicles shall be parked within the dripline of a tree or shrub to be retained

12-406-2-2 No accessway shall be constructed within the driplines of tree to be retained.

12-406-2-3 No grading shall occur on a site until approved fencing is placed at the dripline of trees and shrubs to be retained on the project site.

12-406-2-4 All trees to be retained shall be clearly marked on the project site to ensure such trees are not removed.

12-407 Timber and slash encountered during the removal process must be stored at a specific location pursuant to the DRB approved Construction Staging Plan. All timber and slash not allowed by Town Staff to remain on the site must be removed from the Site within thirty (30) days. No burning of wood, or any other material, is permitted within the Town.

SECTION 12-500 Tree Removal Violation and Penalties

12-501 The removal or material alteration of any tree four (4) inches at DBH without the prior approval of the DRB or the Building Official or the provisions of this Article as set forth herein shall constitute a violation of this LUO and may result in the imposition of a penalty and fine pursuant to this Section 12-500.

12-502 Each tree removed or materially altered in violation of this Article shall constitute a separate violation of the LUO and shall be subject to a fine of no less than \$5,000 per tree. In addition to a fine of no less than \$5,000 per tree, the penalty assessed for any violation of this Article shall also include all costs incurred by the Town of investigating the violation (including a reasonable allocation of Town employee compensation), reasonable attorneys' fees, and any other costs incurred by the Town in connection with such violation.

12-503 Any party that violates any provision of this Article as well as the Owner or lessee of the property on which the violation has occurred shall be subject to the penalties imposed pursuant to this Section 12-500.

12-504 Any party violating the provisions of this Article, and/or the Owner or lessee of the property on which the violation has occurred, shall also be subject to an order requiring that the loss or

damage resulting from a violation of this Article be mitigated. Such mitigation shall be in conformance with a mitigation plan established by the DRB, and the order requiring such mitigation may be issued by the Town Manager or the Building Official. All costs incurred for implementing the mitigation plan established by the DRB shall be the sole responsibility of the party violating this Article and/or the Owner or lessee of the property on which the violation has occurred and shall be in addition to any other penalties assessed for the violation. In connection with any mitigation plan imposed by the DRB, the Town Manager or the Building Official may also require the violator and/or the Owner or lessee of the property on which the violation has occurred to reimburse the Town for the costs it has incurred in investigating the violation and establishing the mitigation plan, including reasonable attorneys' fees.

12-505 If any party refuses to comply within thirty (30) days of receipt of written notice of the violation of the mitigation plan established by the DRB, the Town may elect to perform the work required by the mitigation plan. If the Town does perform this work, the costs of doing so shall be assessed as an additional cost against the party violating the provisions of this Article and/or the Owner or lessee of the property on which the violation has occurred. If such costs are not timely reimbursed to the Town, the Town may file suit in the County or District Court of San Miguel County, Colorado, to recover such costs. In any such action, the Town shall be entitled to recover its reasonable attorneys' fees, expert witness fees, and any other costs.

12-506 Any costs, including reasonable attorneys' fees, incurred by the Town in connection with investigating, prosecuting, or mitigating any violation of this Article which are not timely reimbursed shall bear interest at the rate of eighteen percent (18%) per annum from the date reimbursement is requested until paid.

SECTION 12-6 Enforcement

12-601 In addition to any other rights under this Article, the Town shall have the right to assert a lien against the property on which the violation has occurred for the amount of any mitigation costs incurred by the Town, and for the Town's costs in investigating and prosecuting any violations under this Article, including its reasonable attorneys' fees. The Town shall have the right to foreclose any lien imposed pursuant to this Article in the manner provided under Colorado law. In any action commenced by the Town to foreclose a lien imposed pursuant to this Article, the Town shall be entitled to recover its reasonable attorneys' fees, expert witness fees, and any other costs.

ARTICLE 13 NONCONFORMING USES

SECTION 13-1 PURPOSE

13-101 Adoption of land use controls and changes in zone district limitations have resulted in Uses, Buildings, and Lots that were lawful at the time they were created but that do not conform to the provisions of this Ordinance. While permitting Nonconforming Uses, structures, and improvements to continue, this Article 13 is intended to limit enlargement, Alteration, restoration, or replacement that would increase the discrepancy between existing conditions and the Development standards prescribed by this Ordinance.

SECTION 13-2 EXISTING NONCONFORMING USES

13-201 Nonconforming Sites, Uses, structures and Site improvements lawfully established and lawfully authorized by permits or regulations existing prior to the effective date hereof may continue subject to the limitations prescribed by such permits, regulations and/or this Article 14.

13-202 Sites lawfully established pursuant to regulations in effect prior to the effective date hereof which do not conform to the requirements prescribed by this Ordinance and/or the Design Regulations for the zone district in which they are situated may continue and shall be deemed legally established Building Sites, subject to the Site Development standards prescribed by this Ordinance and/or the Design Regulations. No such Site shall be further reduced or enlarged in area or dimensions.

13-203 The use of a Site or structure lawfully established prior to the effective date hereof which does not conform to the Use regulations prescribed by this Ordinance and/or the Design Regulations for the district in which it is situated may continue provided that no such Nonconforming Use shall be enlarged to occupy a greater Site area for Building floor area than it occupied on the effective date hereof. Any subsequent reduction in Site area or floor area occupied by a Nonconforming Use shall be deemed a new limitation, and the use shall not thereafter be enlarged to occupy a greater Site area or floor area than such new limitation.

13-204 Structures and Site improvements lawfully established prior to the effective date hereof which do not conform to the Development standards prescribed by this Ordinance and/or the Design Regulations and the current Design Regulations for the district in which they are situated may continue. Such structures and Site improvements shall not be further enlarged.

13-205 Nonconforming Uses, structures, and Site improvements may be maintained and repaired as necessary for convenient, safe, or efficient operation or Use provided that no such maintenance or repair shall increase the discrepancy between the Use, structure, or Site improvement and the Development standards prescribed by this Ordinance and/or the Design Regulations.

SECTION 13-3 DISCONTINUANCE OR CHANGE OF NON-CONFORMING USES

13-301 Any Nonconforming Use that is discontinued for a period of twelve (12) months, regardless of any intent to resume operation of Use, shall not be resumed thereafter, and any future Use of the Site or structures thereon shall conform to the provisions of this Ordinance and/or the Design Regulations.

13-302 A Nonconforming Use shall not be changed to another Nonconforming Use unless permission has been granted by the Town Council. Prior to granting such permission, the Town Council shall determine that the proposed Use does not substantially differ from the existing Nonconforming Use in terms of compatibility with the character of the area in which it is located, and the Town Council shall determine that the proposed Use does not increase or aggravate the degree of Nonconformity existing prior to any such change of Use.

13-303 Whenever a Nonconforming Use which does not conform with the regulations for the Zoning District in which it is located or a Nonconforming Structure or Site improvement which does not

conform with the requirements for setbacks, height, Density, etc., is destroyed by fire or other calamity or by act of God, its Use may be resumed or the structure may be restored provided the restoration is commenced within one (1) year and diligently pursued to completion. All new construction must conform to the Uniform Building Codes, Uniform Fire Code, the LUO and the Design Regulations and any other relevant codes regarding safety and construction that is in effect at the time rebuilding is proposed.

13-304 In the event that a Development Permit is sought for any property on which a Nonconforming Use exists, the issuance of a Development Permit may be conditioned upon bringing the Nonconforming Use into conformance with the LUO, the Design Regulations and all applicable Building Codes.

ARTICLE 14 SPECIAL USE, HOME OCCUPATION AND CAMPING PERMITS

SECTION 14-1 SPECIAL USE PERMITS

14-101

Special Uses are those Uses that are generally compatible with the other Uses permitted in a zone district but that require individual review of their location; design; configuration; density and nature; intensity of use, operation, structures, and parking circulation; and that may require the imposition of appropriate conditions in order to ensure the compatibility of the Special Use at a particular location and mitigate any potentially adverse effect on surrounding lands. All Special Uses shall meet the standards set forth in this Section 14-1. Special Uses are those Uses that are inherently incompatible with other common land Uses throughout the Town but are essential to the community. Therefore some provision must be made for their existence and operation. The locations shall be determined by a selection process designed to identify locations that best serve the Special Use while minimizing the negative impacts and obtrusiveness to the Town residents and visitors as well as the wildlife and scenic resources. Special Uses also require individual review by the DRB and Town Council of their design, configuration, density of structures, intensity of Use and operational procedures, and may require the imposition of appropriate conditions in order to mitigate potential adverse impacts on surrounding lands. All Special Uses shall meet the standards set forth in this Section 14-1.

14-102 REVIEW OF SPECIAL USE PERMIT APPLICATION AND REFERRAL

14-102-1 An Applicant for a Special Use Permit shall comply with Section 3-3 and 3-4 of this LUO.

14-102-2 A Special Use Permit Application shall be thoroughly reviewed by the Department of Community Development to determine whether it conforms to the requirements of the LUO. The Application may, as necessary, be referred to any public utility, or any other agency or organization deemed appropriate, to complete the review, i.e. the Telluride Fire Protection District (TFPD), or San Miguel Power Association (SMPA), etc. A written report summarizing any review agency comments, public comments, and Staff comments, shall be completed by Staff and distributed to the reviewing body and the Applicant.

14-102-3 The Applicant shall be responsible for all fees associated with the review of the Application by any outside agency or organization.

14-102-4 The Applicant shall be responsible for all legal fees incurred by the Town in the processing and review of the Application.

14-103 PLANNING AND ZONING MEETING/RECOMMENDATION TO COUNCIL

14-103-1 The DRB shall consider a Special Use Permit Application at a public meeting only after notice is given in conformity with the LUO. The DRB shall review the data provided by the Applicant, review the findings and recommendations of the Department of Community Development, and receive comment from all interested persons in attendance. Thereafter, the DRB shall recommend to the Town Council that the Application be continued, approved, approved with conditions, or denied.

14-104 TOWN COUNCIL APPROVAL OR DENIAL

14-104-1 Following the DRB's recommendation for approval, approval with conditions or denial of an Application, the Town Council, after proper notice, shall consider the Application. The Town Council, taking into consideration the findings and recommendations of the DRB and the comments of interested persons, shall approve or deny an Application. The Town Council shall be the final decision-making body on an Application. The decision of Town Council shall be in the form of a resolution and shall be recorded at the County Clerk and Recorder's Office, San Miguel County, Telluride, Colorado. The Applicant shall provide the Staff with a non-erasable Mylar, if the Application contains a replat, containing all required signatures except the Mayor's.

14-105 SPECIAL USE PERMIT REVIEW STANDARDS

The issuance of a Special Use Permit shall be dependent upon findings that the proposed Use, as conditioned, fully complies with the LUO and Design Regulations. The Town Council may attach any other conditions deemed appropriate to ensure compliance with the following standards:

1. Consistent with LUO and Design Regulations. The proposed Special Use shall be consistent with the goals, objectives, and policies of the LUO and Design Regulations, including standards for Building and Site design;
2. No Substantial Hazard. The design, Development, and operation of the proposed Special Use shall not constitute a substantial physical hazard to the neighborhood, public facilities or Open Space;
3. Operation Impacts on Neighbors. The design, Development and operation of the proposed Special Use will not have significant adverse effect to the surrounding property Owners and Uses;
4. Impacts on Public Facilities. The design, Development and operation of the proposed Special Use does not have a significant adverse effect on the purposes of the facilities owned by the Town, District or Metro Services or Open Space;
5. Minimizes adverse environmental and visual impacts. The design, Development and operation of the proposed Special Use shall minimize adverse environmental and visual

impacts to the extent possible considering the nature of the proposed Special Use;

6. Traffic and Parking Impacts. The design, Development and operation of the proposed Special Use shall not create unreasonable vehicular or pedestrian circulation hazards and sufficient off-site parking can be accommodated on the Site given the nature of such Special Use;
7. No Damage to Water Supply Sources. The proposed Special Use does not potentially damage or contaminate any public, private, residential, or agricultural water supply source;
8. Other relevant standards of the LUO and Design Regulations. The Development and operation of the proposed Special Use shall comply with all standards imposed on it by all other applicable provisions of the LUO and Design Regulations for Use, layout, and general Development characteristics within the underlying Zone District; and
9. Other agency permits. The design, Development and operation of the proposed Special Use shall comply with all standards imposed on it by all other applicable regulatory agencies including, but not limited to, the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency.

SECTION 14-2 HOME OCCUPATION PERMITS

14-201 The conduct of a business out of a home shall require the issuance by the DRB of a Home Occupation Permit. Application shall be made on a form prescribed by the Staff and shall be accompanied by a statement fully describing the nature of the business including hours of operation; equipment or machinery to be used, anticipated number of customers, clients or students; and other features of the business. After review of the Application, the DRB may approve issuance of a permit if the proposed use will conform to the requirements of this Section 14-2. If the DRB finds that the proposed use will not conform to the provisions of this Section 14-2, or would be injurious or detrimental to other properties in the vicinity, the permit may be denied.

14-202 Home Occupation Permits shall be for a limited time period not exceeding two (2) years. Permits shall be renewable upon Application subject to such regulations as shall be in effect at the time of Application for renewal.

14-203 Home Occupation Permits shall be subject to the following limitations:

14-203-1 The Use shall be conducted entirely within a dwelling and carried on principally by the inhabitants thereof. Employees, other than inhabitants of the dwelling, shall not exceed one (1) person at any time.

14-203-2 The Use shall be clearly incidental and secondary to the Use of the Dwelling Unit for dwelling purposes and shall not change the residential character thereof.

14-203-3 The total floor area used for the home occupation shall not exceed one-fourth (1/4) of the gross residential floor area of the Dwelling Unit, nor shall it exceed five hundred (500) square feet.

14-203-4 There shall be no advertising, display, or other indication of the home occupation

on the premises.

14-203-5 Selling supplies or products on the premises shall not be permitted.

14-203-6 There shall be no exterior storage on the premises of material used in the home occupation.

14-203-7 There shall be no noise, vibration, smoke, dust, odor, heat or glare noticeable at or beyond the property line as a result of the home occupation.

14-203-8 A home occupation shall not generate significant vehicular traffic in excess of that typically generated by residential Dwelling Units. No parking or storage of Commercial vehicles shall be permitted on the Site.

14-203-9 Home occupations may include the following and similar: activities conducted principally by telephone or mail order; studios and activities producing light handcrafts or objects of art; teaching and tutoring instruction limited to two (2) pupils at a time; dressmaking and apparel alterations. Home occupations shall **not** include the following: a clinic, funeral home, nursing home, tearoom, Restaurant, antique shop, veterinarian's Office, or any similar use.

14-204 A Home Occupation Permit may be revoked by the Town if it is determined that the provisions of this Section 14-2 or the limitations prescribed as a condition of the permit are being violated. The Permit shall become void if not used within two (2) months of issuance, or if the use for which it was issued is discontinued for a continuous period of six (6) months or more.

SECTION 14-3 CAMPING PERMITS

14-301 A request for a Camping Permit is to be made to Staff in writing and will be agendized for Town Council at the next available meeting date.

14-302 The party requesting the Camping Permit will notice in the local papers the date, time, location of meeting and details of the request fourteen (14) and seven (7) days prior to the Town Council review of the request. Staff must review this notice prior to publication.

14-303 A Camping Permit request shall comply with the following standards:

14-303-1 Entrance and exit/adequate site distances. The entrance and exit locations shall have adequate site distances to ensure safe entry and exit based on speed of the road.

14-303-2 A plan for providing electrical service (if necessary), sanitary services and trash removal.

14-303-3 A bond for the cleanup and restoration of the camping area shall be posted in an amount sufficient to restore the area to its prior condition.

14-303-4 A Parking Plan shall be provided and approved by the Town.

14-304 Town Council will approve, approve with conditions, deny, or continue a request for a Camping Permit.

ARTICLE 15 EQUESTRIAN SPECIAL USE PERMIT

SECTION 15-1

The boarding of horses shall require the issuance of an Equestrian Special Use Permit. In order for an Application to be considered for review by the DRB, the following criteria must be met:

1. Only Lots that are zoned Single-Family are eligible;
2. Only Lots that are four (4) acres or greater in size are eligible;
3. One side of the Lot must adjoin either Active Open Space that has an approved; developed equestrian trail or US Forest Service (USFS) land;
4. The Owner of the Lot must obtain permission in writing from TSG to access approved, developed equestrian trails on TSG property;
5. The Owner of the Lot must also be the Owner of any horse(s) proposed to be boarded on the Lot.

SECTION 15-2

Submittal requirements for an Equestrian Special Use Permit shall include the following:

1. A Site Plan defining location and design of proposed structures and Fencing; access to structures; access to adjacent approved, developed equestrian trails on Active Open Space or USFS land; storage Enclosures; etc;
2. Public notice to all adjacent land Owners, pursuant to Section 3-4 of this Ordinance;
3. A Grazing Plan and data to satisfy the DRB that vegetation can be sustained for the proposed number of horses to be boarded on the land;
4. Fees applicable to DRB review and consideration of the permit will be determined by the DRB Staff. An annual fee for this permit will be charged and collected at such time as the permit is reviewed each year and considered for renewal.

SECTION 15-3

Upon issuance of an Equestrian Special Use Permit, the Owner will be required to abide by the following rules and regulations:

15-301 The boarding of horses is prohibited after November first and before June first of any year.

15-302 Permits expire on November first each year and must be renewed by DRB before June first of the following year at a regularly scheduled meeting after public notice has been provided pursuant to Section 3-4 of this Ordinance.

15-303 The riding or walking of horses is allowed only on approved, developed equestrian trails on Active Open Space, with TSG or other Open Space Owner's written permission and subject to TSG rules and regulations, or on USFS land if access is contiguous to the Lot.

15-304 Horses shall be ridden or walked in such a manner so as not to endanger hikers, bikers, etc.

15-305 The boarding of horses on any Lot shall neither threaten the health, safety and welfare of any individual, any horse, or any wildlife within the Town nor adversely affect the environment.

15-306 The permit shall not run with the land and is non-transferable.

15-307 The Owner shall be responsible for the prompt and proper disposal of excrement in such a manner that minimizes and mitigates odor, unsightliness, and infiltration or other damage to the environment.

15-308 No structure, including a Fence, related to the boarding, riding or maintenance of horses, or the Development of any horse path, equestrian trail, or training area, can occur within fifty (50) feet of a Lot line that adjoins Active Open Space or USFS land or within one hundred (100) feet of any other Lot line. All Development shall meet the requirements of the Design Regulations.

SECTION 15-4

Notwithstanding Article 5, the DRB may vary certain requirements and rules and regulations under this Section for the Commercial operation of sleigh rides, trail rides or carriage rides.

ARTICLE 16 SKI LIFT SPECIAL USE PERMIT

SECTION 16-1

The installation of a Ski Lift on any tract of land within the Town shall require the issuance of a Ski Lift Special Use Permit. In order for an Application to be considered for review by the DRB, in addition to the Special Use Permit standards contained in Section 14-105 of the LUO, the following criteria must be met:

1. One side of the Lot or tract of land must immediately adjoin Open Space that is used for ski trail purposes; and
2. The Owner of the Lot or tract of land must obtain permission in writing from the ski area owner to build a Ski Lift that provides access to a ski trail.

SECTION 16-2

Submittal requirements for a Ski Lift Special Use Permit shall include the following:

1. A Site Plan defining location and design of proposed structures, the access to adjacent ski trails and the location of all structures on adjacent property;
2. Elevations of the proposed structures showing the overall height of the proposed structures;
3. A Landscape Plan showing which trees are to be removed, tree protection during construction, as well as the proposed revegetation for all disturbed areas;

4. A noise study which shall include the maximum decibels generated by the lift in addition to the decibels at adjoining property lines;
5. A View Plane Study from neighboring properties;
6. Public notice to all adjacent land Owners, pursuant to Section 3-4 of this Ordinance;
7. A Ski Lift operating plan which shall include at a minimum how the lift will be operated, how snow removal will be accomplished and what minimum staffing is necessary;
8. A written agreement releasing, indemnifying and holding the Town harmless from any liability that may arise from the use, installation, repair and/or maintenance of the Ski Lift;
9. Fees applicable to DRB review and consideration of the permit will be determined by the DRB Staff. An annual fee for this permit will be charged and collected at such time as the permit is reviewed each year and considered for renewal.

SECTION 16-3

Upon issuance of a Ski Lift Special Use Permit, the Owner will be required to abide by the following rules and regulations:

16-301 The use of the Ski Lift before the first day of the ski season or after the last day of the ski season is prohibited and the Ski Lift may only be used between the hours of 9:00 am to 4:30 pm.

16-302 Permits expire on the day after the last day of the ski season and must be renewed by submitting a Ski Lift special use permit renewal application with all supporting documentation to staff before the first day of the next ski season. The renewal may be approved by staff providing no objection to the operation of the Ski Lift has been received by staff. If an objection to the operation of the Ski Lift has been received, the renewal application will be forwarded to the Town of Mountain Village Town Council for review and approval.

16-303 When property containing a Ski Lift is sold the new owner must file for a new permit by submitting a Ski Lift special use permit renewal application to staff. The renewal may be approved by staff providing no objection to the operation of the Ski Lift has been received by staff. If an objection to the operation of the Ski Lift has been received, the renewal application will be forwarded to the Town of Mountain Village Town Council for review and approval.

16-304 If the Ski Lift generates decibels in excess of the limitation placed on the Ski Lift Special Use Permit, the use of the Ski Lift shall cease until the noise level is reduced.

16-305 Any Ski Lift that fails to have a Ski Lift special use permit renewal permit issued for over one ski season shall be removed and the area where the Ski Lift was shall be restored and revegetated to pre-Ski Lift conditions by the Ski Lift owner, entirely at the owner's expense. A bond in the amount of 110% of the cost to remove the Ski Lift and restore and revegetate the Ski Lift area shall be deposited with the Town of Mountain Village upon approval of the Ski Lift.

16-306 The Owner of the Ski Lift will be responsible for maintaining the appropriate liability coverage for the Ski Lift and shall provide evidence of same to the Town.

16-307 Appropriate safety and instructional signage must be maintained.

16-308 At the end of each ski season, the Owner of the Ski Lift shall submit a Safety Report, which at a minimum will contain the date, time and description of all safety related incidents related to the operation of the Ski Lift.

16-309 At the end of each ski season, the Owner of the Ski Lift shall submit an Engineering /Maintenance Report, which at a minimum will contain all maintenance conducted on the Ski Lift during the prior year, and a description of the general condition of the Ski Lift.

16-310 The Ski Lift must be operated in compliance with an Operation Plan submitted to and approved by the Town that described the operating, repair, maintenance and safety procedures for the Ski Lift.

ARTICLE 17 EXTERIOR MAINTENANCE FUNCTION

SECTION 17-1

An Owner of a Site, or improvements on such Site, shall maintain that Site or improvements of such Site in a clean, safe and orderly condition. If the Owner fails to perform any acts of maintenance or repair, the Owner will be in non-compliance with this Land Use Ordinance and subject to the enforcement provisions contained herein.

SECTION 17-2

Neither the Town of Mountain Village nor any of its designees or Employees or Agents shall be liable for any incidental or consequential damages for failure to inspect any Site or improvements or portion thereof or to repair or maintain the same.

ARTICLE 18 NO MINING OR DRILLING

SECTION 18-1

No property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, mineral, rocks, stones, gravel or earth.

ARTICLE 19 SAVINGS CLAUSE AND EFFECTIVE DATE

SECTION 19-1

If any Section, Subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unlawful, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each Section, Subsection, clause or phrase thereof, irrespective of the fact that any one or more Section, Subsection, sentence, clause, or phrase be declared unlawful.

SECTION 19-2

This Ordinance shall take effect and be in full force and effect immediately upon its adoption.

END