

ORDINANCE NO. 2015-05

AN ORDINANCE TO AMEND THE COMMUNITY DEVELOPMENT CODE (CDC) AT (A) SECTION 17.4.14(F)(3) TO REVISE THE CRITERIA FOR ALLOWING SKI LIFTS ON PRIVATE LOTS; AND (B) SECTION 17.6.9 TO MEET OR EXCEED SAN MIGUEL COUNTY OPEN BURNING REGULATIONS; (C) SECTION 17.3.4(F)(4) TO ALLOW FOR THE RE-SUBDIVISION AND REZONING OF SINGLE-FAMILY LOTS SUBJECT TO MODIFIED CRITERIA; AND (D) MISCELLANEOUS AMENDMENTS TO THE CDC TO ACCOMPLISH THE FOREGOING

RECITALS

- A. The Town of Mountain Village (the "Town") is a legally created, established, organized and existing Colorado municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado (the "Constitution") and the Home Rule Charter of the Town (the "Charter").
- B. Pursuant to the Constitution, the Charter, the Colorado Revised Statutes and the common law, the Town has the authority to regulate the use and development of land and to adopt ordinances and regulations in furtherance thereof.
- C. The Town Council may amend the CDC from time-to-time to address CDC interpretations, planning matters, clarify and refine the Town's land use regulations; or to address issues or policy matters.

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

Section 1. Amendment of Community Development Code

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

Section 2. Ordinance Effect

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any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.
- E. All ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 3. Severability

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

Section 4. Effective Date

This Ordinance shall become effective June 20, 2015.

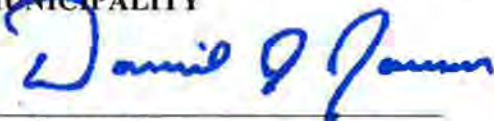
Section 5. Public Hearing

A public hearing on this Ordinance was held on the 21st day of May, 2015 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 23rd day of April, 2015.

TOWN OF MOUNTAIN VILLAGE

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

By: 
Dan Jansen, Mayor

ATTEST:


Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 21st day of May, 2015.

TOWN OF MOUNTAIN VILLAGE

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

By: 
Dan Jansen, Mayor

ATTEST:


Jackie Kennefick, Town Clerk

Approved As To Form:


Jim Mahoney, Assistant Town Attorney

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

1. The attached copy of Ordinance No. 2015-05 ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on April 23, 2015, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Dan Jansen, Mayor	X			
Cath Jett, Mayor Pro-Tem	X			
Jonette Bronson			X	
John Howe	X			
Michelle Sherry	X			
Martin McKinley	X			
Dave Schillaci			X	

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on May 1, 2015 in accordance with Section 5.2b of the Town of Mountain Village Home Rule.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on May 21, 2015. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Dan Jansen, Mayor	X			
Cath Jett, Mayor Pro-Tem	X			
Jonette Bronson	X			
John Howe	X			
Michelle Sherry	X			
Martin McKinley	X			
Dave Schillaci		X		

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 21st day of May, 2015.

(SEAL)



Jackie Kennefick
 Jackie Kennefick, Town Clerk

Exhibit A: CDC Amendments

1. Ski Lifts (Tramways) Conditional Use Permits

- a. The installation of a ski lift on a private single-family lot is strongly discouraged, and will only be permitted in situations where full compliance with the review criteria is satisfied thereby justifying the installation.
- b. The installation of a ski lift that serves multi-family lots or three or more single-family lots are considered more appropriate as a conditional use and will be permitted in situations where full compliance with the review criteria thereby justifying the installation.
- a-c. The installation of a ski lift on a private lot outside of the ski resort requires the issuance of a ski lift conditional use permit. In addition to other applicable requirements of the CDC, ski lift conditional use permits shall comply with the following general standards and review authority criteria for decision:
- d. General Standards That Must Be Met Prior to Submitting for a Conditional Use Permit
 - i. One side of the lot must immediately adjoin open space that is used for ski trail purposes;
 - ii. The applicant has contacted adjacent property owners within 400 feet of the proposed lift to get input on the location, design and visual impacts prior to submitting the development application for the ski lift and shall affirm to the review authority that the applicant has satisfied these criteria. Nothing contained in this criteria shall require the consent or written response of adjacent property owners;
 - iii. The owner of the lot must obtain permission in writing from the ski resort operator to build a ski lift that provides access to a ski trail.

Criteria for Decision

- i. The property owner has demonstrated that special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions cause a hardship that necessitates the installation of a lift;
- ii. Visual impacts caused by the ski lift are minimized and mitigated, with the location and design carefully located and planned so that a ski lift is not readily visible to surrounding properties. In the event that a ski lift cannot be located and planned on a specific site so as to satisfy this criteria such ski lift shall not be permitted by the review authority. A ski lift serving a multifamily lot or three or more single family lots do not require the strict application of this criteria, however, such a ski lift shall still minimize the visual impacts to surrounding properties;
- iii. Noise impacts are minimized and mitigated;
- iv. Wildlife impacts are minimized and mitigated so as to not unreasonably impact wildlife habitat and movement; and
- ii-v. The length of the proposed lift is the -minimum possible length with longer lift lines strongly discouraged unless they are serving a multifamily lot of three or more single family lots.

~~b.e.~~ Upon issuance of a ski lift conditional use permit, the lot owner will be required to abide by the following rules and regulations:

- ~~i. The review authority can limit the operation time for a lift on a case-by-case basis to coincide with the operation of the ski resort. 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 a.m. to 4:30 p.m.~~
- ii. If the ski lift generates decibels in excess of the limitation placed on the ski lift conditional use permit, the use of the ski lift shall cease until the noise level is reduced.
- iii. 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.
- iv. Appropriate safety and instructional signage must be maintained.
- v. The ski lift must be operated in compliance with the operation plan submitted to and approved by the Town as a part of the conditional use permit that describes the operating, repair, maintenance and safety procedures for the ski lift.
- vi. The ski lift shall be used solely by the owner(s) and guests of the lot(s) where the lift is located, and shall not be used for commercial purposes.
- vii. The tramway shall be reviewed and approved by the Colorado Passenger Tramway Safety Board or its successor pursuant to applicable state regulations.

17.1.9

OPEN BURNING REGULATIONS

~~A. Open burning of wood or slash in piles is strongly discouraged and will only be permitted in limited situations where the use of a curtain burner is not feasible.~~

~~A.B.~~ Open burning of wood or slash in piles without the use of a curtain burner or similar enclosed burning device is limited to land zoned as open space unless approved as provided for herein. Such open burning shall only be allowed by the Town for fire mitigation and/or forestry management projects, or ski resort improvements pursuant to the class ~~15~~ development application process subject to meeting the Open Burning Regulations.

- ~~1.~~ Open burning is prohibited on all lots that are not zoned as open space unless the ~~Town Council~~ review authority grants a specific approval for a lot that is larger than five (5) acres and the requirements contained herein are met.

~~B. Burning of slash/brush with the use of an air curtain burner or similar enclosed burning device may be approved for all lots in the town as part of a Town-approved fire mitigation and/or forestry management project pursuant to the class-1 development application process subject to meeting the Open Burning Regulations.~~

C. An applicant for open burning shall submit the following:

~~1. San Miguel County Burn Permit, issued by San Miguel County, Colorado.~~

~~2.1. Proof of written notice of intent to conduct an open burn specifying the location and nature of the proposed open burn shall be sent approval of the Telluride Fire Protection District. Such notice shall be submitted at least ten (10) days prior to applying~~

~~for an open burn to the Town to conduct an open burn. In the event the Telluride Fire Protection District objects to the open burn within ten (10) days after being provided notice, such open burn shall not be approved by the Town.~~

- ~~2. A written fire management plan must accompany an open burning permit request specifying the dates on which open burning is proposed to occur, time of the day and duration of burning, and a site plan showing the location of the proposed open burning and materials to be burned. The plan must also include an estimate of quantities and measures to be implemented to provide for protection of the public from any risk associated with the open burning. Such plan must also be accompanied by documentation evidencing the need for open burning, a description of why the open burning would be in the public interest.~~
- ~~3. A site plan showing the area and size of wood and slash pile(s) to be burned.~~
- ~~4.3. A control plan showing how the burn will be monitored and the duration of the burn.~~
- ~~5.4. Technical specification for a curtain burner or similar enclosed device when such a device is proposed for the open burn.~~
- ~~6.5. Fire protection measures the applicant will use to control the burn.~~
- ~~7.6. A Town approved indemnification, holding the Town harmless from any loss or damage caused by the open burn.~~
- ~~8.7. A certificate of general commercial liability insurance in a form satisfactory to the Town, in the amount of not less than five million dollars (\$5,000,000) in aggregate per occurrence, naming the Town as an additional insured. The amount and type of insurance required by this section may be increased by a resolution of the Town Council.~~

D. The review authority shall issue a burn permit if, in its sole and absolute discretion, it finds that:

1. All of the submittal requirements have been fulfilled;
2. Fire protection and air quality measures provide sufficient safeguards to the community;
3. ~~Weather and forest fuel~~ conditions are predicted to allow the open burn without adverse impacts to air quality, or the spread of wildfire;
- ~~3.4. The review authority determines that the impact to regional air quality will be insignificant.~~
- ~~4.5. The TFPD or other referral agencies have and San Miguel County have not objected to approved the proposed burn permit;~~
- ~~6. For open pile burning, the review authority determines that no other method, including the use of curtain burners or hauling of materials can be effective in achieving the goal of the overall project for which the open pile burn is requested, given the specific circumstances of each application, the use of a curtain burner is infeasible.~~
- ~~5.7. Any other-referral agency comments on the open burn have been addressed;~~
8. Indemnification and insurance have been provided to the Town prior to the issuance of the open burn permit.
- ~~6.9. The approval includes a condition that the applicant is required to notify and obtain approval from Mountain Village Police Department for each individual day on which open burning will occur.~~
10. The applicant has notified the public of the time and place for which the burn will take place using the Town approved manner for such notification.

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Ski Lift: Is a Passenger tramway that is device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air by the use of steel cables, chains, or belts, or by ropes, and usually supported by trestles or towers with one or more spans. "Passenger tramway" includes, but is not limited to, fixed-grip lifts, detachable-grip lifts, funiculars, chair lifts or surface lifts as defined in CRS 25-5-702.

17.3.4(F)(4)

4. **Further Subdivision ~~Prohibited~~ Limited.** Single-family lots may not be further subdivided to create additional lots and additional density may not be transferred onto a single-family lot; provided, however, a ~~s~~Single-family lot may be further subdivided and additional density may be transferred onto a single-family lot by the Rezoning Process in limited situations only if:

- a. The density is currently permitted on a lot; or
- b. The Comprehensive Plan envisions higher density; or
- c. A PUD is approved pursuant to the PUD Regulations; ~~and/or~~
- d. The Town Council determines that the rezoning is exceptional and meets ~~specific~~ conditions to mitigate the upzoning, such as but not limited to clustered development, the provision of additional open space, or other community benefits; and, separation and buffering from other lots.
- ~~d.e.~~ The rezoning is compatible and fits with surrounding area development,