

ORDINANCE NO. 2019-XXXX-_____

AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE (CDC) AT SECTIONS 17.5.12: LIGHTING REGULATIONS AND 17.5.15: COMMERCIAL, GROUND LEVEL AND PLAZA AREA DESIGN REGULATIONS, AND CHAPTER 17.8: DEFINITIONS 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 due to changing circumstances or for general housekeeping purposes. Such an update of the CDC has become necessary for technical corrections, clarifications and consistency.

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, Title 17 is hereby amended and replaced as set forth in Exhibit A which is attached hereto and incorporated herein.
- B. The Planning Division is directed to codify the amendments in Exhibit A into the CDC.
- C. The Planning Division may correct typographical and formatting errors in the amendments or the adopted CDC.

Section 2. Ordinance Effect

- A. 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any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.
- B. All ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 3. Severability

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

Section 4. Effective Date

This Ordinance shall become effective on _____ XX, 2019

Section 5. Public Hearing

A public hearing on this Ordinance was held on the 16th day of May 2019 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 16th day of May, 2019

TOWN OF MOUNTAIN VILLAGE:

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

ATTEST:

By: _____
Laila Benitez, Mayor

Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this XXth day of _____, 2019.

TOWN OF MOUNTAIN VILLAGE:

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

ATTEST:

By: _____
Laila Benitez, Mayor

Jackie Kennefick, Town Clerk

Approved As To Form:

Jim Mahoney, Assistant Town Attorney

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

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

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

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Dan Jansen				
Bruce MacIntire				
Patrick Berry				
Natalie Binder				
Jack Gilbride				

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

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

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Dan Jansen				
Bruce MacIntire				
Patrick Berry				
Natalie Binder				
Jack Gilbride				

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

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

Jackie Kennefick, Town Clerk

(SEAL)

EXHIBIT A

(Language ~~stricken~~ is deleted; underlined language is new.)

A.1: CDC § 17.5.12 is amended as follows:

17.5.12 LIGHTING REGULATIONS

A. Purpose and Intent

The purpose of the Lighting Regulations is to establish standards for minimizing the unintended and undesirable side effects of residential exterior lighting while encouraging the intended and desirable safety and aesthetic purposes of such lighting. It is the purpose of the Lighting Regulations to allow illumination that provides the minimum and safe amount of lighting that is needed for the lot on which the light sources are located. In addition, the purpose of this section is to protect the privacy of neighboring residents by controlling the intensity of the light source. All exterior lighting shall conform to the standards set forth below.

B. Limited Exterior Lighting

The basic guideline for exterior lighting is for it to be subdued, understated and indirect to minimize the negative impacts to surrounding lots and public rights-of-way. The location of exterior lighting that meets the requirements of this section shall only be allowed at:

1. Buildings where Building Codes require building ingress and egress doors;
2. Pedestrian walkways or stairs;
3. Plaza areas and other public areas where lighting is required;
4. Deck or patio areas;
5. Surface parking ~~lots~~;
6. Signs;
7. Address identification or address monuments;
8. Flags;
9. Public art;
10. Driveways;
11. Street lights; ~~and/or~~
12. Swimming pools, spas and water features; and
13. Outdoor living spaces.

C. Prohibited Lighting. The following exterior lighting is prohibited:

1. Architectural lighting;
2. Landscape lighting;
3. Uplighting;
4. ~~3.~~ Flood lighting;
5. ~~4.~~ Other lighting not outlined above as permitted or exempt lighting;
6. Lighting that causes glare from a site or lot to any designated wetlands or other environmentally sensitive areas;
7. ~~5.~~ Lighting that causes glare from a site or lot to adjoining property; and
8. ~~6.~~ Lighting that produces glare to vehicles within a public right-of-way or access tract.

D. Exemptions. The following types of exterior lighting shall be exempt from the Lighting Regulations:

1. Seasonal lighting, providing individual lamps are less than ~~ten (10) watts and seventy (70) lumens~~ per linear foot of lighting;
 - a. Seasonal lighting shall not detrimentally affect adjacent neighbors. If the Town determines that ~~seasonal~~ such lighting detrimentally affects adjacent neighbors, it may determine such lighting to be a nuisance and require the lighting to be removed.
2. Temporary lighting that is used for theatrical, television, performance area and construction sites;
3. Emergency lighting; ~~and~~
4. Special event lighting approved by the Town as a part of the required development application;
5. Swimming pool and/or hot tub lighting when it is established that no off-site glare shall occur;
6. Lighting of the United States Flag when there is no other down-light option to prevent upward glare;
7. Lighting within public right-of-way for the principle purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right-of-way when the purpose is to illuminate areas outside the public right-of-way; and,
8. Lighting required by the ski resort operator for the ordinary operation of the ski area snow making installation and operation.

E. Lighting Design Regulations.

1. **Full Cut-Off Fixture Design.** All exterior lighting shall be ~~designed as~~ eighty-five degrees (85°) full cut-off fixtures that direct the light downward without any off-site glare, except as exempted in Section 17.5.12(D).
 - ~~a. Opaque glass may be used to achieve this requirement.~~
 - a. ~~b.~~ Each exterior luminaire shall be fully shielded down directed light sources and shall not exceed 850 lumens, with the exception of residential outdoor pathway and recessed stairway lighting which shall not exceed 300 lumens per luminaire. Lighting for Town owned parking garages shall not exceed 5000 lumens per luminaire.
 - b. ~~Exemptions:~~
 - i. ~~Swimming pool and water feature lighting when it is established that no off-site glare shall occur; and~~
 - ii. ~~Lighting of the United States flag when there is no other down-light option to prevent the upward glare.~~

- e. ~~Approved surface parking lots lighting shall be screened to direct the light onto the parking lots and to ensure lower elevation development is protected from glare.~~
2. **Required Exterior Lighting Type.** LED lighting or other equivalent ~~energy saving~~ high efficacy lighting compliant with this section, shall be used for all exterior lighting. Any fixture with a 0-5 watt lamp shall have a minimum overall luminous efficacy of 30 lumens/watt; any fixture with a 6-15 watt lamp shall have a minimum overall luminous efficacy of 45 lumens/watt.
 3. **Maximum Temperature.** The maximum correlated color temperature for ~~differing~~ all proposed lighting types regardless of lamp type, shall be a minimum of 2,400 degrees Kelvin and shall not exceed 3,000 degrees Kelvin, or may employ amber light sources, filtered LED light sources, or a suitable alternative - with the goal of having a warmer light source.
 - a. ~~3,500 degrees Kelvin for incandescent, halogen lighting, HID and other lighting not specified herein.~~
 - b. ~~4,500 degrees Kelvin for LED lighting provided the degrees Kelvin is reduced closer to 3,500 to the extent practical given current LED technologies, with the goal of having warmer, less bluish toned LED lights.~~
 4. **Lighting for Parking Areas.** Lighting shall be provided for surface parking areas and underground parking garages.
 - a. Surface parking lot lighting shall be located in landscaped areas to the extent practical.
 - b. Parking area lights are encouraged to be greater in number, lower in height and lower in light level.
 - c. Approved parking area lighting shall direct the light onto the parking lot areas only and ensure lower elevation development is protected from glare.
 5. **Maximum Height Limit for Lights.** The following light fixture height limits shall be met. The review authority may approve other heights based on site-specific considerations.
 - a. The maximum height for a pole-mounted light fixture shall be twelve feet (12')- as measured from the immediate adjacent grade, either natural or finished. Pole-mounted light fixtures are not permitted or intended to be placed on buildings or structures in order to artificially increase the height allowance or circumvent maximum height allowances.
 - b. The maximum height for a wall-mounted light fixture shall be seven feet (7') above the directly adjacent walking surface or pathway, except for sign lighting that may be higher as reviewed and approved by the review authority to allow for proper illumination of the sign.
 - c. The maximum height for public surface parking, above ground and/or underground parking garage area lighting shall be fifteen feet (15') above the grade of the parking

spaces that are intended to be illuminated. The town would encourage alternative lighting proposals to minimize parking area lighting impacts.

6. Lighting on Upper Floors.

- a. Exterior lighting on second or higher stories shall be provided by wall-mounted fixtures, ~~or~~ by recessed wall, or ceiling fixtures, or lighting that is louvered or otherwise designed to prevent off-site glare.
- b. Decks on second and upper floors that do not have stairs shall have only recessed wall or ceiling, in-rail or in-wall, louvered or concealed lighting that is directed towards the building or the deck/patio surface and not to the exterior yards.
- c. Exterior Lighting on second and upper floors shall require either a timer or sensor to reduce usage and energy loss during times of inactivity.

7. Levels of Illumination: Exterior Lighting, when in use, shall meet the following standards for illuminance of light consistent with the provisions listed below. A point-by-point photometric calculation listing the number, type, height, and level of illumination of all exterior lighting fixtures may be required as per Section 17.5.12(E)(9) prior to Design Review Board approval or staff approval to ensure compliance with these provisions.

- a. Parking lots, driveways, trash enclosures/areas, and group mailboxes shall be illuminated with a maximum average not to exceed four (4 fc) foot-candles of light.
- b. Pedestrian walkways and staircases shall be illuminated with a maximum average not to exceed two (2 fc) foot-candles of light or as otherwise required by building code.
- c. Exterior doors shall be illuminated with a minimum maintained one (1 fc) foot-candle of light, measured within a five (5' 0") foot radius on each side of the door at ground level or as otherwise required by building code.
- d. In order to minimize light trespass on abutting residential property, illumination measured at the nearest residential structure or rear yard setback line shall not exceed the moon's potential ambient illumination of one-tenth (0.1 fc) foot-candle
- e. The use of exterior lighting shall be minimized in areas of important wildlife habitat and delineated wetlands, and lighting shall be designed so that it does not spill over or onto such critical habitat.

8. Lighting Designer Required. In the case of new development or remodeling subject to the Lighting Regulations, a Lighting Certified professional, a Certified Lighting Efficiency professional, an International Association of Lighting Designers member or similarly certified professional, or a licensed architect shall design all exterior lighting.

9. Lighting Plan Required. A detailed exterior lighting plan, separate from other required plans, shall be submitted with development application detailing the location and specifications of all lighting to be installed. New development of single-family dwellings having a gross floor area of less than 3,500 square feet as well as minor

revisions to existing lighting plans shall be subject to only the requirements of 17.5.12(E)(9)(a) below unless it is determined by the Community Development Department that unique circumstances exist or if required for safety reasons.

- a. The exterior lighting plan shall describe the location, height above grade, type of illumination (such as ~~incandescent~~ LED, halogen, high pressure sodium, etc.), lumens, wattage, source, and correlated color temperature for each light source being proposed.
- b. An isofootcandle diagram prepared by a certified lighting professional or licensed architect as outlined above ~~shall be provided~~ may be required and if required shall to indicate the level and extent of the proposed lighting as per 17.5.12(E)(7). _

10. Additional Lighting Requirements for the Village Center. Provisions for seasonal ~~and holiday~~ lighting shall be incorporated into the exterior lighting plan for all projects located within the Village Center.

- a. Additional lighting requirements for the Village Center are found within the Commercial, Ground Level and Plaza Area Design Regulations.

11. Application. All newly installed exterior lighting shall comply with the Lighting Regulations.

- a. A redevelopment or remodel valued at fifty thousand dollars (\$50,000) or more shall retrofit all existing exterior lighting to comply with the then current Lighting Regulations.
- b. Notwithstanding the value of the redevelopment or remodel, if twenty-five percent (25%) or more of the exterior lights are to be replaced, all existing exterior lighting shall be retrofitted to comply with the then current Lighting

A.2: CDC § 17.5.15 is amended as follows:

(***)

(B)(4): Lighting

- a. In general, lighting within commercial areas shall originate within the storefront windows and not be dependent on freestanding light fixtures. Direct light sources should be used only for accent of architecture, landscape, artwork or for the definition of entries and walkways consistent with the Lighting Regulations.
- b. Window displays within storefront windows shall be illuminated ~~lighted~~ so as to provide an indirect glow of light onto adjacent pedestrian walkways and plazas. Harsh light and glare from storefront windows or interiors shall be avoided.
- c. Interior ~~fluorescent~~ lights shall be baffled so that the light source shall not be seen from pedestrian areas.
- d. ~~White, yellow or other~~ Town-approved LED lights with a minimum correlated color temperature of 2,400K and a maximum correlated color temperature of less than

3,000K shall be used to light storefronts. With all lighting types, extreme care shall be taken to avoid glare and color distortion. Flashing, blinking or moving lights shall not be used in storefronts. Colored lighting and projector lighting of the interior of a storefront may be used for storefronts and displays with specific approval from the review authority.

A.3: CDC § 17.8 is amended as follows:

Chapter 17.8 Definitions

(***) to be inserted in alphabetical order of the existing definitions

Efficacy: Luminous efficacy is a measure of how well a light source produces visible light. It is the ratio of luminous flux to power, measured in lumens per watt (lm/W).

Exterior Lighting: Artificial outdoor illumination as well as outdoor illuminating devices or fixtures, whether permanent or temporary, including, but not limited to, illumination and illuminating devices or fixtures emanating from or attached to: the exterior of buildings, including under canopies and overhangs, within railings or stairs; structures, such as poles, fences, or decks; the interior or exterior of open-air structures or buildings such as gazebos, pergolas, and breezeways; and the ground, a tree, or other natural features.

Foot-Candle: ("FC") The basic unit of illuminance (the amount of light falling on a surface). Foot-candle measurement is taken with a hand-held light meter. One foot-candle is equivalent to the illuminance produced on one square foot of surface area by a source of one candle at a distance of one foot. Horizontal foot-candles measure the illumination striking a horizontal plane.

Glare: Light entering the eye directly from a light fixture or indirectly from reflective surfaces that cause visual discomfort or reduced visibility to a reasonable person.

Kelvin: The measure of color temperature of a light source. Temperature is measured in degrees with warmer temperatures having a lower number and cooler temperatures having a higher number.

Lamp: A source of optical radiation (i.e., "light"), often called a "bulb" or "tube." Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light emitting diode (LED) modules and arrays.

Light Pollution: The material adverse effect of artificial light, including but not limited to, glare, light trespass, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light Trespass: An undesirable condition in which exterior light is cast across property lines to areas that are unwarranted or unwanted.

Lumen: A unit of measure used to quantify the amount of visible light produced by a lamp or emitted by a light fixture (as distinct from "watt", a measure of power consumption).

Luminaire: A complete lighting unit consisting of one or more lamps, together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the electrical power supply; also called the lighting fixture or fixture.

Outdoor Living Space: an area that extends the usable living area of the home and includes indoor elements such as furniture, kitchen areas, walls or enclosures, overhead cover or canopy, fireplaces, or other entertainment elements that are typically found indoors.

Seasonal Lighting: Lighting installed and operated in connection with the holidays or other seasonal traditions.