

**ORDINANCE NO. 2019-07**

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

**RECITALS**

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

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

**Section 1. Amendment of Community Development Code**

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

**Section 2. Ordinance Effect**

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

**Section 3. Severability**

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

**Section 4. Effective Date**

This Ordinance shall become effective on November 16, 2019.

**Section 5. Public Hearing**

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

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

**TOWN OF MOUNTAIN VILLAGE:**

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



By: Laila Benitez, Mayor

ATTEST:



Jackie Kennefick, Town Clerk

**HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 17<sup>th</sup> of October 2019.**

**TOWN OF MOUNTAIN VILLAGE:**

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



By: Laila Benitez, Mayor

ATTEST:



Jackie Kennefick, Town Clerk

Approved As To Form:



Jim Mahoney, Assistant Town Attorney

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

1. The attached copy of Ordinance No. 2019-07 ("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 September 19, 2019, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tem	X			
Patrick Berry	X			
Natalie Binder	X			
Peter Dupre	X			
Jack Gilbride	X			
Marti Prohaska	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 September 25, 2019 in accordance with Section 5.2b of the Town of Mountain Village Home Rule.

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

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tem	X			
Patrick Berry	X			
Natalie Binder			X	
Peter Dupre	X			
Jack Gilbride	X			
Marti Prohaska		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 17<sup>th</sup> day of October 2019.

(SEAL)



*Jackie Kennefick*  
 Jackie Kennefick, Town Clerk

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

**Criteria for Decision**

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

**D. General Standards**

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



**Recreational Trails:** Pedestrian paths, equestrian trails, hiking and biking trails and other similar recreational use trails.

**Redevelopment:** See development definition.

**Referral and Review Process:** One of the development application procedures' steps to (a) send a development application to certain referral agencies as provided for in Chapter 4; and (b) review the development application against the requirements of the CDC.

**Renewal:** The renewal or extension or a soon to be expiring approval of a development application.

**Renewal Procedures:** The process to renew or extend a soon to be expiring development application.

**Replacement Open Space:** The provision of open space to replace open space that is being rezoned for development per the platted open space requirement as set forth in Chapter 3.

**Required Plan Revisions:** Revisions to a development application that must be made in order to meet the requirements of the CDC as provided for in Chapter 4.

**Restaurant/Bar:** An establishment oriented to the serving of food and/or beverages. Does not include establishments providing drive-in service ,which are expressly prohibited.

**Review Authority:** The entity designated to take final action on an application pursuant to the provisions of the CDC, which includes the Town Council, DRB, Planning Division staff and Building Division staff.

**Revocation Procedure:** The procedure for the Town to revoke a development application approval as provided for in Chapter 4.

**Rezoning:** To change the zoning, zoning designation(s) or density allocation on a lot or site.

**Rezoning Process:** The rezoning development application to change the zone district and/or zoning designation on a Lot.

**Ridge Club Building:** The building located on Lots 161A-1R, 161A-R2, and 161A-R3.

**Ridgelines:** A line connecting the highest point along a ridge and separating basins or small scale drainage systems from one another.

**Ridgeline Lots:** Ridgeline lot regulations as set forth in Chapter 5.

**Ridgeline Multi-Family Lots:** Ridgeline lot regulations as set forth in Chapter 5.

**Ridgeline Single-Family Lots:** Ridgeline lot regulations as set forth in Chapter 5.

**Right-of-Way:** An area dedicated to public use for pedestrian and vehicular circulation, which may also accommodate public utilities and similar uses.

**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.

**Sale or Sell:** The exchange of goods or services for money or other consideration, including the offering of goods or services for donation except when offered to express religious, social or political belief.

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

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

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

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

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

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

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

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

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

**Zoning:** The zoning designation assigned to a lot.

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

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

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

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

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

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

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

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

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

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

**Hotel:** A zoning designation that allows for a one means a habitable (1) room space with separate bath and limited kitchen facilities used primarily for Short T-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 in a condominium community.

**Hotel Efficiency:** A zoning designation that allows for a means a habitable two (2) room space, or one (1) room plus a mezzanine, with separate bath and limited kitchen facilities used primarily for Short T-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 in a condominium community.

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

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

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

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

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

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

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

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

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

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