

**TOWN OF MOUNTAIN VILLAGE
ORDINANCE NO. 2023-08**

AN ORDINANCE OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, AMENDING ORDINANCE NO. 2023-05 PREVIOUSLY APPROVED BY THE TOWN COUNCIL OF THE TOWN AUTHORIZING THE LEASING OF CERTAIN REAL PROPERTY IN CONNECTION WITH THE FINANCING OF ADDITIONAL MULTIFAMILY HOUSING IN VILLAGE COURT APARTMENTS TO EXTEND THE TERM OF THE SITE LEASE AND THE MASTER LEASE; RATIFYING AND AFFIRMING ORDINANCE 2023-05 AND OTHER ACTIONS PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Mountain Village, Colorado (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Mountain Village Home Rule Charter (the “Charter”); and

WHEREAS, pursuant to Section 8.5(g) of the Charter, the Town is authorized to enter into long-term annually renewable installment purchase, lease-purchase rental or other leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, on April 20, 2023, the Town Council of the Town (the “Council”) approved on first reading Ordinance 2023-05 (the “Prior Ordinance”) authorizing the Town to enter into a Master Lease with the Town of Mountain Village Housing Authority, a Site Lease with BOKF, NA d/b/a BOK Financial or one of its affiliates, or any other bank selected by the Town for purposes of financing the Project (the “Bank”), and a Lease with the Bank, all for the purpose of financing the acquisition, construction and equipping of approximately 35 additional units of multifamily housing in Village Court Apartments (the “Project”) (capitalized terms used in this ordinance and not otherwise defined herein shall have the meanings provided in the Prior Ordinance); and

WHEREAS, the second reading, public hearing and final Council vote to approve the Prior Ordinance took place on May 8, 2023; and

WHEREAS, at the request of BOKF, NA d/b/a BOK Financial, the Town has been asked to modify the Prior Ordinance to extend the maximum permitted term of the Site Lease (as well as the Master Lease, which shall be coterminous with the Site Lease) to end no later than December 31, 2053; and

WHEREAS, the forms of the Master Lease, Site Lease and Lease were approved, subject to permitted changes, by the Prior Ordinance, and revised forms of such documents have been submitted to the Town; and

WHEREAS, pursuant to Section 5.8 of the Charter, because of the existing housing crisis in the Town, the limited availability of low interest financing, the fact that the Project must be completed within certain time constraints and the Project cannot be commenced until the financing for the Project is secured, the Council has determined that an emergency exists and that adoption of this

ordinance is immediately necessary for the preservation of the public peace, health, safety, and welfare of the residents of the Town.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE:

Section 1. All actions heretofore taken (not inconsistent with the provisions of this ordinance) by the Council or the officers of the Town, directed toward approval of the Master Lease, the Site Lease and the Lease by the Town, the financing of the Project, and consummation of the transactions contemplated by the Prior Ordinance and this ordinance, are hereby ratified, approved and confirmed.

Section 2. The Prior Ordinance is hereby amended to confirm the delegation to the Town Manager of the Town the authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i), Colorado Revised Statutes, in relation to the Lease, subject to the following parameter and restriction: the Site Lease (and the Master Lease) shall end no later than December 31, 2053.

Section 3. The Master Lease, the Site Lease and the Lease in substantially the forms approved or contemplated by the Prior Ordinance, as modified by the forms currently on file with the Town, with only such changes therein as are not inconsistent herewith, are in all respects authorized, approved and confirmed. Any and all other changes to documents approved or contemplated by the Prior Ordinance as may be deemed by the executing officers, in consultation with Bond Counsel, to be necessary or appropriate in connection with the financing of the Project, are hereby approved. The Mayor, the Town Clerk and other appropriate officers of the Town are hereby authorized and directed to execute and deliver the Master Lease, the Site Lease and the Lease, or such other financing documents as described in the Prior Ordinance, in substantially the forms and with substantially the same content as presented to the Town with only such changes therein as are not inconsistent herewith, for and on behalf of the Town.

Section 4. Except to the extent modified by this ordinance, all of the terms and provisions of the Prior Ordinance are hereby ratified and affirmed and are incorporated herein by this reference.

Section 5. The Mayor, the Authorized Officer and other appropriate officers of the Town are hereby authorized to execute and deliver all additional certificates, documents, instruments and other papers (including amendments or modifications of any such documents consistent with this ordinance), and to perform all other acts they may deem necessary or appropriate, in order to implement and carry out the matters authorized or contemplated by the Prior Ordinance and this ordinance.

Section 6. All bylaws, orders, resolutions or ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 7. The Council hereby declares that, because of the existing housing crisis in the Town, the limited availability of low interest financing, the fact that the Project must be completed within certain time constraints and the Project cannot be commenced until the financing for the Project

is secured, an emergency exists. The Council hereby further declares that, due to such emergency, this ordinance is immediately necessary for the preservation of the public peace, health, safety, and welfare of the residents of the Town and is being adopted as an emergency ordinance pursuant to Section 5.8 of the Charter. For informational purposes, a public notice containing the full text of this ordinance shall be published within five (5) days after enactment.

Section 8. This ordinance shall become effective immediately upon passage.

**THIS ORDINANCE WAS INTRODUCED, READ, APPROVED AND FINALLY ADOPTED
THIS 15TH DAY OF JUNE 2023.**

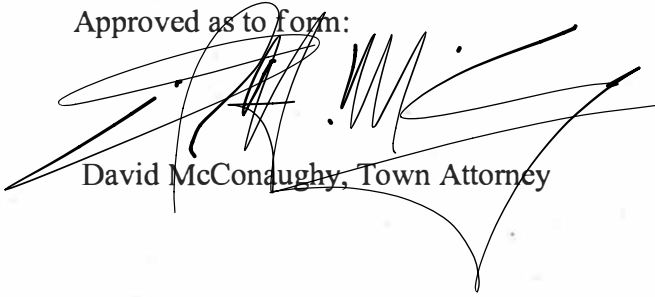


Laila Benitez, Mayor

ATTEST:


Susan Johnston, Town Clerk

Approved as to form:


David McConaughy, Town Attorney

STATE OF COLORADO)
)
 COUNTY OF SAN MIGUEL) SS.
)
 TOWN OF MOUNTAIN VILLAGE)

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

(i) The foregoing pages are a true, correct and complete copy of an emergency ordinance (the "Ordinance") that was introduced and approved in accordance with the Town Charter (the "Charter") by the Town Council of the Town (the "Council") at a regular meeting thereof held on June 15, 2023, which Ordinance has not been revoked, rescinded, amended or repealed and is in full force and effect on the date hereof.

(ii) The Ordinance was duly moved and seconded, and the Ordinance was approved at the meeting of June 15, 2023, by an affirmative vote of a majority of the membership of the members of the Council present at the meeting as follows:

Councilmember	Voting "Yes"	Voting "No"	Absent	Abstaining
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro Tem	X			
Patrick Berry	X			
Peter Duprey	X			
Jack Gilbride	X			
Harvey Mogenson	X			
Marti Prohaska	X			

(iii) Pursuant to the Section 5.8 of the Charter, neither a second reading nor a public notice and hearing are required prior to the time the Ordinance goes into effect.

(iv) The members of the Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

(v) The Ordinance was authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk, and recorded in the minutes of the Council.

(vi) There are no bylaws, rules or regulations of the Council that might prohibit the adoption of the Ordinance.

(vii) Notice of the meeting of June 15, 2023, in the form attached hereto as Exhibit A, was posted in at least three public places within the Town and at the offices of the Town Clerk not less than 7 days prior to such meeting in accordance with the Charter.

WITNESS my hand and the seal of the Town affixed this 15 day of June 2023.

[SEAL]



Susan Johnston
 Susan Johnston, Town Clerk

EXHIBIT A

(Attach Notice of Meeting of June 15, 2023)

**TOWN OF MOUNTAIN VILLAGE
TOWN COUNCIL REGULAR MEETING
THURSDAY, JUNE 15, 2023, 2:00 PM
2nd FLOOR CONFERENCE ROOM, MOUNTAIN VILLAGE TOWN HALL
455 MOUNTAIN VILLAGE BLVD, MOUNTAIN VILLAGE, COLORADO
AGENDA **REVISED 2****

https://us06web.zoom.us/webinar/register/WN_fQ1a5zTvQs6fPHeTniGtMA

Please note that times are approximate and subject to change.

	Time	Min	Presenter	Type	
1.	2:00				Call to Order
2.	2:00	30	Wisor McConaughy	Legal	Executive Session for the Purpose of: <ul style="list-style-type: none"> a. Conference with the Town Attorney for the Purpose of Receiving Legal Advice on Specific Legal Questions, to Determine Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations and/or Instructing Negotiators, In Connection With Proposed Wastewater Treatment Plant Authority Pursuant to C.R.S. 24-6-402(4), (b), and (e) b. Conference with the Town Attorney for the Purpose of Receiving Legal Advice on Specific Legal Questions. to Determine Positions Relative to Matters That May be Subject to Negotiations Developing Strategy for Negotiations and/or Instructing Negotiations and to Discuss the Purchase or Acquisition of Real Property (Lot 648-AR) Pursuant to CRS 24-6- 402(4a),(b), and (c)
3.	2:30	5			Public Comment on Non-Agenda items
4.	2:35	5	Wasserman	Action	Consideration of a Proclamation Declaring June as Immigrant Heritage Month
5.	2:40	5	Johnston	Action <i>Quasi-Judicial</i>	Liquor Licensing Authority: <ul style="list-style-type: none"> a. Consideration of an Application for a Special Event Liquor Permit for Telluride Art + Architecture for an Event on July 13, 2023 from 5:00 – 9:30 PM
6.	2:45	5	Johnston	Action	Consent Agenda: All matters in the Consent Agenda are considered to be routine by the Town Council and will be enacted with a single vote. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately: <ul style="list-style-type: none"> a. Consideration of Approval of the May 18, 2023 Town Council Meeting Minutes
7.	2:50	10	Maenpa	Informational	Telluride Regional Airport Authority Update (TRAA))
8.	3:00	5	Lemley	Informational	Finance: <ul style="list-style-type: none"> a. Presentation of the May 31, 2023 Business & Government Activity Report (BAGAR)
9.	3:05	10	Lemley	Action <i>Legislative</i>	Second Reading, Public Hearing and Council Vote on Ordinance of the Town Council Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Budgeted for the Town of Mountain Village, Colorado, for the Calendar Year Beginning on the First Day of January 2023, and Ending on the Last Day of December 2023
10.	3:15	10	Wisor Lemley	Action <i>Legislative</i>	Consideration of an Emergency Ordinance of the Town of Mountain Village, Colorado, Amending Ordinance No. 2023-05 Previously Approved by the Town Council of the Town Authorizing the Leasing of Certain Real Property in Connection with the Financing of

**TOWN COUNCIL MEETING
AGENDA FOR JUNE 15, 2023**

					Additional Multifamily Housing in the Village Court Apartments to Extend the Term of the Site Lease and the Master Lease; Ratifying and Affirming Ordinance No. 2023-05 and Other Actions Previously Taken in Connection Therewith; and Declaring an Emergency
11.	3:25	10	Ward	Action Quasi-Judicial	First Reading, Setting of a Public Hearing and Council Vote on an Ordinance Regarding a Density Transfer and Rezone Application for Lot 648AR Unit 2-3D at 313 Adams Ranch Road, Pursuant to CDC Section 17.4.9 <i>This Item was Continued from the May 18, 2023 Town Council Meeting</i>
12.	3:35	60	Ward Haynes	Action Quasi-Judicial	Consideration of Action Regarding a Major Planned Unit Development (PUD) Amendment to the Formerly Named Mountain Village Hotel PUD, to Consider Amendments to the Existing PUD for Lot 109R for a Mixed-Use Hotel/Resort Development Including Plaza, Commercial, Hotel and Residential Use <i>This item was Continued from the March 16, 2023, Regular Town Council Meeting</i>
13.	4:35	60	Ward Haynes	Action Quasi-Judicial	Consideration of Action Regarding a Rezone of Portions of Town Owned Village Center Active Open Space (OS-3- BR2) to 109R PUD, and 109R PUD to Village Center Active Open Space (OS-3- BR2) and a Portion of 109R PUD to Active Open Space Right of Way (a Portion of the Mountain Village Blvd Bridge) Consistent with CDC Section 17.4.9 15. Related to the Concurrent Major Subdivision Application to Replat Portions of Property Between Lot 109R and OS-3-BR-2 <i>This Item was Continued from the March 16, 2023 Regular Town Council Meeting</i>
14.	5:35	20	Ward Haynes	Action Quasi-Judicial	Consideration of Action for a Major Subdivision to Replat Portions of Property Between Lot 109R and OS-3-BR2 <i>This Item was Continued from the March 16, 2023 Regular Town Council Meeting</i>
15.	5:55	15			Dinner
16.	6:10	15	Ward	Action Quasi-Judicial	Consideration of a Resolution Approving a Height Variance at Lot 137, TBD Granite Ridge, Mountain Village Pursuant to CDC Sections 17.3.11&12 and 17.4.16
17.	6:25	15	Ward	Action Quasi-Judicial	Consideration of a Resolution Approving a Minor Subdivision to Vacate Portions of the General Easement on Lot 137 Pursuant to CDC 17.4.13
18.	6:40	20	Ward	Work Session	Discussion Regarding Lot 30 and Lot 27A Phased Development and Potential Vested Property Rights Extensions
19.	7:00	10	Wisor Haynes O'Connor Foster	Action	Consideration of a Development Agreement for Lot 644, Meadowlark at Mountain Village Between Triumph Development West and the Town of Mountain Village Housing Authority
20.	7:10	10	Wisor Soukup Dittman	Action Legislative	Resolution Approving an Asset Purchase Agreement for the Sale of the Town's Broadband and Cable System to Vero Networks
21.	7:20	10	Wisor Soukup Dittman	Action Legislative	First Reading, Setting of a Public Hearing and Council Vote on an Ordinance Approving the Lease of Certain Real Property, Commonly Known as the Headend, to Vero Networks for Continued Broadband and Cable System Operations
22.	7:30	10	Armstrong Broady	Action	Consideration of a Resolution Adopting a San Miguel County Pre-Hazard Mitigation Plan
23.	7:40	5	Lemley Squire	Action	<i>Consideration of Adoption of a Resolution Increase Fees for Mountain Munchkins</i>

**TOWN COUNCIL MEETING
AGENDA FOR JUNE 15, 2023**

			Wisor		
24.	7:45	10	McConaughy Wisor	Action	Consideration of Approval of a Settlement Agreement Between Telluride Mountain Village Owners Association, Friends of Telluride Mountain Village Owners Association and the Town of Mountain Village
25.	7:55	20	Town Council	Informational	Council Boards and Commissions Updates: 1. Telluride Tourism Board - Berry 2. Colorado Flights Alliance - Gilbride 3. Transportation & Parking – Mogenson/Duprey 4. Budget & Finance Committee – Gilbride/Duprey/ Mogenson 5. Gondola Committee – Caton/Berry/Prohaska 6. Colorado Communities for Climate Action – Berry 7. San Miguel Authority for Regional Transportation (SMART) – Berry/Prohaska/Mogenson 8. Telluride Historical Museum – Prohaska 9. Alliance for Inclusion – Prohaska 10. Green Team Committee- Berry/Prohaska 11. Business Development Advisory Committee – Caton/Duprey 12. Wastewater Committee – Duprey/Mogenson 13. Mayor’s Update – Benitez
26.	8:15	5			Other Business
27.	8:20				Adjourn

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting Town Hall at 970-369-6429 or email: mvclerk@mtnvillage.org. A minimum notice of 48 hours is required so arrangements can be made to locate requested auxiliary aid(s)

<https://bit.ly/WatchMVMeetings>

Register in advance for this webinar:

https://us06web.zoom.us/webinar/register/WN_fQ1a5zTvQs6fPHeTniGtMA

After registering, you will receive a confirmation email containing information about joining the webinar.

Zoom participation in public meetings is being offered as a courtesy, however technical difficulties can happen and the Town bears no responsibility for issues that could prevent individuals from participating remotely. Physical presence in Council chambers is recommended for those wishing to make public comments or participate in public hearings.

Public Comment Policy:

- All public commenters must sign in on the public comment sign in sheet and indicate which item(s) they intend to give public comment on
- Speakers shall wait to be recognized by the Mayor and shall give public comment at the public comment microphone when recognized by the Mayor
- Speakers shall state their full name and affiliation with the Town of Mountain Village if any
- Speakers shall be limited to two minutes with no aggregating of time through the representation of additional people
- Speakers shall refrain from personal attacks and shall keep comments to that of a civil tone
- No presentation of materials through the AV system shall be allowed for non-agendized speakers
- Written materials must be submitted 48 hours prior to the meeting date to be included in the meeting packet and of record. Written comment submitted within 48 hours will be accepted, but shall not be included in the packet or be deemed of record