

**ORDINANCE NO. 2024-16**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO CONDITIONALLY APPROVING DENSITY TRANSFER FOR LOT 644**

WHEREAS, Meadowlark 644, LLC (the “Owner”) is the owner of certain real property located at Lot 644, Telluride Mountain Village, Filing 22 Plat 1 Page 932-933, commonly known as 100-122 Meadowlark Lane, Mountain Village, Colorado (the “Property”); and

WHEREAS, Will Ellis of Triumph Development and Michelle Haynes, Assistant Town Manager (together, “Applicant”), with the consent of the Owner, have submitted an application to the Town of Mountain Village (the “Town”) to transfer 12 employee condominium units of unbuilt density to the Town’s Density Bank (the “Application”), which Application consists of the materials submitted and itemized on Exhibit A, attached hereto, plus all statements, representations, and additional documents of the Owner and its representatives made or submitted at the public hearings before the Design Review Board (“DRB”) and the Town of Mountain Village Town Council (“Town Council”); and

WHEREAS, the DRB held a public hearing on October 3, 2024, to consider the Application and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 7-0 to issue a recommendation of approval to Town Council of the Application, subject to conditions; and

WHEREAS, the Town Council held a public meeting on October 17, 2024, to consider the Application, the DRB’s recommendations, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 7-0 to approve the Application, subject to conditions and a second reading of this Ordinance to be held at a public hearing on November 21, 2024; and

WHEREAS, the Town Council held a public hearing on November 21, 2024, to consider the second reading of this Ordinance and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 6-0 to approve the Application; and

WHEREAS, the public hearings and meetings to consider the Application were duly noticed and held in accordance with the Town’s Community Development Code (“CDC”); and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.9 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below:

1. The proposed rezoning is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan;
2. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
3. The proposed rezoning meets the Comprehensive Plan project standards;
4. 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;
5. 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;

6. Adequate public facilities and services are available to serve the intended land uses;
7. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash, or service delivery congestion; and
8. The proposed rezoning meets all applicable Town regulations and standards.

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.10 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below:

1. The criteria for decision for a rezoning are met, since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
2. The density transfer meets the density transfer and density bank policies; and
3. The proposed density transfer meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve the Application, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, as follows:

**Section 1. Recitals.** The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Ordinance.

**Section 2. Approvals.** The Town Council hereby approves the Application, subject to the conditions set forth below. All exhibits to this Ordinance are available for inspection at the Town Clerk’s Office. The Town Council specifically approves the following density transfer:

Table 1. Lot 644 Density – Existing and Proposed

	<b>Existing Zoning Designations Built</b>	<b>Existing Zoning Designations Platted, Unbuilt</b>	<b>Proposed Zoning Designations Built</b>	<b>Proposed Zoning Designations Platted, Unbuilt</b>	<b>Person Equivalents</b>	<b>Total Person Equivalents</b>
<b>Lot 644</b>	0	123	29	12	3	
<b>Total to Density Bank</b>					12	36

**Section 3. Conditions.** The approval of the Application is subject to the following terms and conditions:

3.1. The density transfer authorized hereby shall not be effective until the Effective Date of this Ordinance.

3.2. The owner of record of density in the Density Bank shall be responsible for all dues, fees, and any taxes associated with the assigned density and zoning until such time as the density is either transferred to a lot or another person or entity.

3.3. Town staff shall update the Town’s Density List to reflect the changes made by this Ordinance as soon as practicable after the Effective Date.

3.4. All representations of the Owner, whether within the Application or at the DRB or Town Council public hearings, are conditions of this approval.

**Section 4. Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

**Section 5. Effective Date.** This Ordinance shall become effective on November 22, 2024 (“Effective Date”) and shall be recorded in the official records of the Town kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

**Section 6. Public Hearing.** A public hearing on this Ordinance was held on the 21st day of November, 2024, in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

**Section 7. Publication.** The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.8 of the Charter.


**INTRODUCED, READ, AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 17<sup>th</sup> day of October, 2024.**

**TOWN OF MOUNTAIN VILLAGE:**

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

By:   
Martinique Prohaska, Mayor

ATTEST:

  
Susan Johnston, Town Clerk


**HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 21st day of November, 2024.**

**TOWN OF MOUNTAIN VILLAGE:**


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

By:   
Martinique Prohaska, Mayor

ATTEST:

  
Susan Johnston, Town Clerk

Approved as to Form:

  
David McConaughy, Town Attorney

I, Susan Johnston, 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. 2024-16 ("Ordinance") is a true, correct, and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading 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 October 17, 2024, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Martinique Prohaska, Mayor	X			
Scott Pearson, Mayor Pro-Tem	X			
Harvey Mogenson	X			
Peter Duprey	X			
Jack Gilbride	X			
Tucker Magid	X			
Huascar Gomez	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 October 23, 2024, in accordance with Section 5.2(d) of the Town of Mountain Village Home Rule Charter.
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 November 21, 2024. At the public hearing, the Ordinance was considered, read by title, and approved with 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
Martinique Prohaska, Mayor	X			
Scott Pearson, Mayor Pro-Tem	X			
Harvey Mogenson	X			
Peter Duprey	X			
Jack Gilbride			X	
Tucker Magid	X			
Huascar Gomez	X			

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 21<sup>st</sup> day of November, 2024.

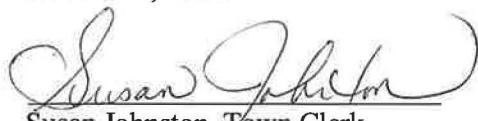
  
Susan Johnston, Town Clerk  
(SEAL)



Exhibit A

[LIST OF APPLICATION MATERIALS]



**OFFICE OF THE TOWN MANAGER**  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 417-6976

August 27, 2024

Amy Ward, Community Development Director  
award@mtnvillage.org

**RE: Density Transfer and Rezone, to transfer the unbuilt density on Lot 644**

**NARRATIVE**

Lot 644 was originally platted for 41 employee apartments in 1992. In 2008, those employee apartments were rezoned to employee condominiums

During the design review process, with neighborhood and public input, the 41 unit density was reduced to 29 units. Originally, we thought there could be a potential phase 2, and we could develop the remaining density, but that isn't feasible.

Pursuant to the CDC unused density on a lot must be transferred into the density bank. We now understand that additional density will likely not be constructed on these lots pursuant to CDC Section 17.3.8.C.

Further, in 2022 the TMVOA modified their dues policy and noted that density in the density bank will not be charged dues. Ultimately, by moving the density into the density bank, the Town of Mountain Village Housing Authority will no longer need to pay the dues associated with the total unbuilt density of 12 units. The burden to pay those additional dues will soon fall to the Meadowlark HOA, once the units are sold this fall, which is an undue burden of additional and unnecessary costs for an affordable housing development.

The process outlined in the CDC is a class 4 application which requires a recommendation by the Design Review Board and two readings of an ordinance by Town Council. We respectfully request the density to be moved into the density bank as a cost savings measure for the housing authority and ultimately our taxpayers.

**REZONE CRITERIA FOR REVIEW CDC SECTION 17.4.9.C.3 CRITERIA FOR DECISION**

3. *Criteria for Decision.* 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;

**The Comprehensive Plan envisions deed restricted housing developed on those properties that already have the density assigned to it. Community Housing became a priority to Town Council in 2017, and ratified by Resolution in 2021.**

- b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;

**The CDC requires that excess density is placed in the density bank, the action we are taking now that phase IV is constructed and occupied.**

c. The proposed rezoning meets the Comprehensive Plan project standards;

**The rezoning is meeting these standards or otherwise do not apply for a transfer of density into the density bank.**

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;

**Paying fees on density that is unbuilt, when those fees would be waived if placed in the density bank is the best savings of public funds. The Town and the developer do not wish to burden the HOA with these additional fees when it can otherwise be taken care of by this action.**

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;

**n/a**

f. Adequate public facilities and services are available to serve the intended land uses;

**Yes**

g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and

**Moving the density into the density bank is the best use of the density. There is not envisioned any area to build the additional density on site along with the additional parking and trash requirements that would follow.**

h. The proposed rezoning meets all applicable Town regulations and standards.

**Yes**

The following criteria shall be met for the Review Authority to approve a density transfer:

- a) The criteria for decision for a rezoning are met, since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
- b) The density transfer meets the density transfer and density bank policies; and
- c) The proposed density transfer meets all applicable Town regulations and standards.

**These criteria are being met.**





# DENSITY BANK TRANSFER APPLICATION

PLANNING & DEVELOPMENT SERVICES  
455 Mountain Village Blvd. Suite A  
Mountain Village, CO 81435  
970-728-1392  
970-728-4342 Fax  
cd@mtnvillage.org

## TOWN OF MOUNTAIN VILLAGE FEE REQUIREMENTS ACKNOWLEDGEMENT

The Town of Mountain Village requires specific fees to be paid with a development application including legal and attorney fees associated with processing land development applications, inquiries and review. Please read and acknowledge the below fee requirement which are found at Community Development Code Section 17.4.4. General Provisions Applicable to All Development Application Classes, Section L. Fees.

### L. Fees

**1. Fee Schedule.** The Town Council shall, from time to time, adopt a fee resolution setting forth all development application fees and associated permit fees. Fees for submittals not listed in the fee schedule resolution shall be determined by the Director of Community Development on a case-by-case basis determined by the similarity between the submittal and the development applications listed on the fee schedule together with the estimated number of hours of staff time the review of the submittal will require. No development application shall be processed, nor any development or building permits shall be issued until all outstanding fees or moneys owed by the applicant, lot owner, developer or related entity, as defined by the Municipal Code, to the Town, in any amount for any purpose, including but not limited to any fees, delinquent taxes, required Town licenses, permit fees, court fines, costs, judgments, surcharges, assessments, parking fines or attorney's fees are paid to the Town.

**2. Town Attorney Fees.** The applicant shall be responsible for all legal fees incurred by the Town in the processing and review of any development application or other submittal, including but not limited to any Town Attorney fees and expenses incurred by the Town in the legal review of a development application together with the legal review of any associated legal documents or issues. Legal expenses so incurred shall be paid for by the applicant prior to the issuance of any permits.

**3. Property or Development Inquiries.** The Town requires that Town Attorney legal fees and expenses be paid for all development or property inquiries where a legal review is deemed necessary by the Town. The developer or person making the inquiry, whichever the case may be, shall be informed of this obligation and execute a written agreement to pay such legal expenses prior to the Town Attorney conducting any legal review. A deposit may be required by the Director of Community Development prior to the commencement of the legal review.

**4. Other Fees.** The applicant shall be responsible for all other fees associated with the review of a development application or other submittal conducted by any outside professional consultant, engineer, agency or organization and which are deemed necessary by the Town for a proper review.

**5. Recordation Fees.** The Community Development Department will record all final plats, development agreements and other legal instruments. The applicant shall be responsible for the fees associated with the recording of all legal instruments.

I have read and acknowledge the fee requirements associated with my application.

*William Ellis*

\_\_\_\_\_  
(signature required)

\_\_\_\_\_  
(date)



# DENSITY BANK TRANSFER APPLICATION

**PLANNING & DEVELOPMENT SERVICES**  
 455 Mountain Village Blvd. Suite A  
 Mountain Village, CO 81435  
 970-728-1392  
 970-728-4342 Fax  
 cd@mtnvillage.org

DENSITY TRANSFER WITHIN THE DENSITY BANK APPLICATION			
APPLICANT INFORMATION			
<b>Name:</b>		<b>E-mail Address:</b>	
<b>Mailing Address:</b>		<b>Phone:</b>	
<b>City:</b>	<b>State:</b>	<b>Zip Code:</b>	
<b>Mountain Village Business License Number:</b>			
PROPERTY INFORMATION			
<b>Physical Address:</b>		<b>Acreage:</b>	
<b>Zone District:</b>	<b>Zoning Designations:</b>	<b>Density Assigned to the Lot or Site:</b>	
<b>Legal Description:</b>			
<b>Existing Land Uses:</b>			
<b>Proposed Land Uses:</b>			
OWNER INFORMATION			
<b>Property Owner:</b>		<b>E-mail Address:</b>	
<b>Mailing Address:</b>		<b>Phone:</b>	
<b>City:</b>	<b>State:</b>	<b>Zip Code:</b>	
DESCRIPTION OF REQUEST			



# DENSITY BANK TRANSFER APPLICATION

PLANNING & DEVELOPMENT SERVICES  
455 Mountain Village Blvd. Suite A  
Mountain Village, CO 81435  
970-728-1392  
970-728-4342 Fax  
cd@mtnvillage.org

**OWNER/APPLICANT  
ACKNOWLEDGEMENT  
OF RESPONSIBILITIES**

I, \_\_\_\_\_, the owner of Lot \_\_\_\_\_ (the "Property") hereby certify that the statements made by myself and my agents on this application are true and correct. I acknowledge that any misrepresentation of any information on the application submittal may be grounds for denial of the development application or the imposition of penalties and/or fines pursuant to the Community Development Code. We have familiarized ourselves with the rules, regulations and procedures with respect to preparing and filing the development application. We agree to allow access to the proposed development site at all times by members of Town staff, DRB members and the Town Council. We agree that if this request is approved, it is issued on the representations made in the development application submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval. By signing this acknowledgement, I understand and agree that I am responsible for the completion of all required on-site and off-site improvements as shown and approved on the final plan(s) (including but not limited to: landscaping, paving, lighting, etc.). We further understand that I (we) are responsible for paying Town legal fees and other fees as set forth in the Community Development Code.

*William Ellis*

Signature of Owner

Date

*William Ellis*

Signature of Applicant/Agent

Date

**OFFICE USE ONLY**

Fee Paid:

By:

Planner:



# DENSITY BANK TRANSFER APPLICATION

**PLANNING & DEVELOPMENT SERVICES**  
455 Mountain Village Blvd. Suite A  
Mountain Village, CO 81435  
970-728-1392  
970-728-4342 Fax  
cd@mtnvillage.org

## OWNER AGENT AUTHORIZATION FORM

I have reviewed the application and hereby authorize \_\_\_\_\_ of  
\_\_\_\_\_ to be and to act as my designated representative and represent the development  
application through all aspects of the development review process with the Town of Mountain Village.

*William Ellis*

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed name)