

**ORDINANCE  
NO. 2021-19**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING THE DENSITY TRANSFER AND REZONE OF LOT 243 R TO TRANSFER ONE UNIT OF DENSITY (FOUR PERSON EQUIVALENT) TO THE DENSITY BANK**

- A. Jeffery Dickmann (“Applicant”) is the owner of record of real property described as Lot 243 R, Town of Mountain Village as further described on the plat recorded on December 17, 2008 as Lots 243 AR and 243 BR Town of Mountain Village, recorded in Plat Book 1 Page 4034 County of San Miguel, State of Colorado (“Property”).
- B. The Applicant submitted its development application for a density transfer and rezone on September 2, 2021 (“Density Transfer and Rezone Application”).
- C. The Applicant submitted a concurrent minor scale subdivision to combine Lots 243 AR and 243 BR into ~~h~~243 R associated with the necessary density transfer and rezone application.
- D. The Density Transfer and Rezone Application has been processed and evaluated pursuant to the Town of Mountain Village Community Development Code (“CDC”).
- E. The Design Review Board (“DRB”) conducted a public hearing on the Density Transfer and Rezone Application in accordance with the CDC Public Hearing Noticing Requirements on November 4, 2021, with public notice of such application as required by the public hearing noticing requirements of the CDC. The DRB recommended to Town Council by a vote of 5-0 to approve the application.
- F. The Town Council considered first reading of an ordinance regarding the application on November 18, 2021.
- G. The Town Council considered on second reading of an ordinance regarding the application on December 9, 2021.
- H. The Town Council finds the proposed Density Transfer and Rezone meets the CDC criteria for decision contained in CDC Section 17.4.10 as follows:
  - 1. The proposed rezoning is in general conformance with the goals, policies and provisions of 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.
- I. The proposed transfer of density to the density bank is consistent with and the Comprehensive Plan as set forth below:
  - 1. Land uses are envisioned to fit into the surrounding neighborhood.
  - 2. Single Family zoning is intended to be low density

3. This application is reducing the density between the two lots by one single family density

The proposed transfer of density to the density bank meets the criteria for the transfer of density to the density bank as set forth below:

4. The criteria for decision for a rezoning are met, since such density transfer must be processed concurrently with a rezoning development application;
5. The density transfer meets the density transfer and density bank policies; and
6. The proposed density transfer meets all applicable Town regulations and standards.

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY APPROVES THE APPLICATION FOR DENSITY TRANSFER AND REZONE OF LOT 243 R SUBJECT TO THE FOLLOWING CONDITIONS.**

1. 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.
2. The Rezoning and Density Transfer approval is conditioned upon approval of the Minor subdivision plat, by the Town Council.
3. The replat, resolution and ordinance will be concurrently recorded at the San Miguel County Clerk and recorder.

**Section 1. 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 1. 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 January 9, 2022 following public hearing and approval by Council on second reading.

**Section 5. Public Hearing**


A public hearing on this Ordinance was held on the 9th day of December 2021

**INTRODUCED, READ AND APPROVED by the Town Council of the Town of Mountain Village, Colorado on the 18th Day of November 2021**

**TOWN OF MOUNTAIN VILLAGE:**

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

BY:   
Laila Benitez, Mayor

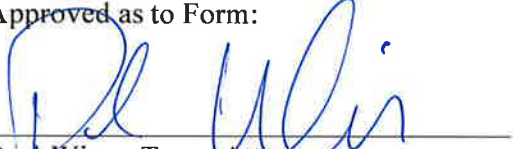
ATTEST:   
Susan Johnston, Town Clerk

**HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 9th day of December 2021**

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

By:   
Laila Benitez, Mayor

ATTEST:  
  
Susan Johnston, Town Clerk

Approved as to Form:  
  
Paul Wisor, 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. 2021-19 ("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 on November 18, 2021, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mavor	X			
Dan Caton. Mavor Pro-Tern	X			
Martiniaue Davis Prohaska	X			
Peter Duprev	X			
Patrick Berry	X			
Harvey Mogenson	X			
Jack Gilbride	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 Sunday, November 28<sup>th</sup>, 2021 in accordance with Section 5.2b 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 via virtual Zoom meeting, Mountain Village, Colorado, on December 9<sup>th</sup>, 2021. 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 as follows:

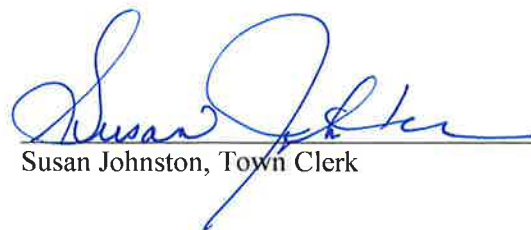
Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tern	X			
Martinique Davis Prohaska	X			
Peter Duprey			X	
Patrick Berrv	X			
Harvey Mogenson	X			
Jack Gilbride	X			

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 9<sup>th</sup> day of December 2021.



(SEAL)

  
Susan Johnston, Town Clerk