

## **ORDINANCE NO. 2022-05**

**AN ORDINANCE AMENDING THE MOUNTAIN VILLAGE MUNICIPAL CODE, CREATING CHAPTER 2.18: PUBLIC ART COMMISSION, AND AMENDING SECTIONS 17.5.12: LIGHTING REGULATIONS, SECTION 17.5.14: PUBLIC AND PRIVATE ART, 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 Municipal Code from time to time due to changing circumstances or for general housekeeping purposes. Such an update of the Municipal Code has become necessary to allow for the creation of a Mountain Village Public Art Committee.

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

#### **Section 1. Amendment of the Municipal Code**

- A. The Town of Mountain Village Municipal Code, Title 2: Administration and Personnel is hereby amended in order to create Chapter 2.18: Public Art Commission as set forth in Exhibit A which is attached hereto and incorporated herein.
- B. 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.
- C. The Planning Division is directed to codify the amendments in Exhibit A into the CDC.
- D. 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any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.
- B. All ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.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 July 16, 2022.


**Section 5. Public Hearing**

A public hearing on this Ordinance was held on the 19<sup>th</sup> day of May 2022 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> day of May 2022.**

**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 16<sup>th</sup> day of June 2022.**

**TOWN OF MOUNTAIN VILLAGE:**


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

By:   
Laila Benitez, Mayor

ATTEST:

  
Susan Johnston, Town Clerk

Approved As To Form:

  
David H. 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. 2002-05 ("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 May 19, 2022, 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			
Peter Duprey	X			
Jack Gilbride	X			
Marti Prohaska	X			
Harvey Mogenson	X			

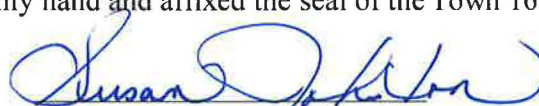
3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on May 25, 2022 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 June 16, 2022. 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			
Peter Duprey	X			
Jack Gilbride	X			
Marti Prohaska	X			
Harvey Mogenson	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 16<sup>th</sup> day of June 2022.

  
Susan Johnston, Town Clerk

(SEAL)



## EXHIBIT A

(\*\*\*) = Portion of existing code removed to shorten length of report

### **Amendment 1:** Amending Title 2 of the Municipal Code to create Chapter 2.18: Public Art Commission

#### Title 2 Administration and Personnel

##### 2.18 Public Art Commission

##### 2.18.10 Established

The Public Art Commission (PAC) is hereby established to review the placement of public art in plaza areas, right-of-way, or other public spaces

##### 2.18.20 Membership

The Public Art Commission shall consist of five (5) regular members who shall be appointed by the Town Council. At least three (3) regular members shall be qualified electors of the Town and, at the time of his or her appointment, each shall have been a resident of the Town for at least six (6) months. Of the five (5) regular members, one (1) member shall be from the Town Staff, one (1) member shall be from the Town Council; two (2) members shall be an artist or arts professional; and one (1) member shall be from the public at large.

##### 2.18.30 Terms – Vacancies

The PAC shall be appointed by the Town Council and shall hold office at its pleasure. Terms shall be staggered with the Town Council and Town Staff seat serving four (4) year terms and the remaining public seats serving an initial two (2) year term and subsequent four (4) year terms for any reappointments or new appointments. Any member may be removed with or without cause by a majority vote of the Town Council. Any vacancy shall be filled by the Town Council.

##### 2.18.40 Organization and Meetings

- A. The members of the Public Art Commission shall elect from its regular membership a Chairperson, whose term of office in such capacity shall be for one (1) year with eligibility for reelection. The Public Art Commission shall adopt rules for its organization and for the transaction of business. Such business shall not conflict with the ordinances of the Town or applicable laws of the State.
- B. All meetings shall be open to the public, and the Public Art Commission shall keep a public record of its proceedings. Meetings shall be held as needed.

##### 2.18.50 Powers and Duties

The following powers and duties of the Public Art Commission shall include, but not be limited to, the following:

- A. To review and make decisions on request for public art on Town Plazas, rights-of-way, parks, or other public space where the art is intended to be enjoyed by residents and visitors of the Mountain Village.
- B. To develop, maintain, and oversee a policy and review criteria for the display of arts on Town-owned properties and other public spaces.

#### 2.18.60 Definition of Public Art

Public art shall be defined as a noncommercial expression of creative skill or imagination in a visual form, in any media. Public art shall be planned and executed with the intention of being staged on public property, plaza areas, sidewalks, streets, or in other areas outside and accessible to all. Public art does not include commercial speech and signs are not included within this definition and are otherwise regulated by Section 17.5.13 and defined in Section 17.8 of the Community Development Code.

Certain standards are included in the definition for the purpose of preventing distraction to vehicular and pedestrian traffic and providing certain reasonable safeguards that will protect the quiet enjoyment of adjacent property or property from which such expression is visible. Those standards are as follows:

- A. The size and manner of the expression do not negatively affect the safe and efficient flow of pedestrian and/or vehicular traffic; restrict ingress and egress to any structure; interfere with the operations of neighboring businesses; or prevent the quiet enjoyment of adjacent property or property from which such expression is visible; and
- B. The expression does not negatively affect public health, safety, or welfare, nor does it create a public nuisance; and
- C. The expression is not generally accepted as a seasonal or holiday display, political campaign advertisement, yard ornament, furniture, or mass-produced statuary or decoration.

#### 2.18.70 Exemption from Design Review

In that public art, as applied for and granted under the terms of this article, is to be transitory and temporary in nature, the architectural, design regulations as set forth or incorporated into Title 17, Community Development Code, shall not be applied or controlling in the evaluation, approval or denial of public art, and applications as submitted under this Chapter shall be exempt from the review and jurisdiction Design Review Board.

#### 2.18.80 Call-Up Procedure

The Town Council, or any two (2) Council Members, may call up a Public Art application for review by Town Council upon written notice thereof at any time after the application has been submitted to the Public Art Commission. Upon call-up, the Town Council shall be vested with the jurisdiction of the application and shall conduct its review of the application. Such review shall be conducted within thirty (30) days from the date of the call-up, or as soon thereafter as can be reasonably accommodated.

**Amendment 2:** Amending Title 17 of the Municipal Code, Section 17.5.12:Lighting Regulations

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B. *Exterior Lighting Permittable with Review.* 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. Surface parking lots;
5. Signs;
6. Address identification or address monuments;
7. Flags;
8. Driveways;
9. Streetlights; and
10. Swimming pools, spas and water features.

(\*\*\*)

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

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9. Lighting associated with Temporary Public Art as defined in Chapter 2.18 of the Municipal Code.

**Amendment 3:** Amending Title 17 of the Municipal Code, Section 17.5.14: Public and Private Art

17.5.14 Private.

A. *Private Art.*

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**Amendment 4:** Amending Title 17 of the Municipal Code, Section 17.8.1: Definitions

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