

**TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL**

**ORDINANCE No. 03
SERIES OF 2011**

**AN ORDINANCE AMENDING AND RESTATING CERTAIN PROVISIONS OF
CHAPTER 16A OF THE TOWN OF SNOWMASS VILLAGE MUNICIPAL CODE
CONCERNING STANDARDS FOR RESTRICTED HOUSING.**

WHEREAS, the Town Council approved Ordinance No. 1, Series of 2010 on February 22, 2010, thereby adopting the 2010 Town of Snowmass Village Comprehensive Plan (the "Comprehensive Plan"); and

WHEREAS, Chapter 10, Actions and Implementation, of the Comprehensive Plan summarized the actions and implementations intended to implement goals and policies found in the individual Comprehensive Plan chapters; and

WHEREAS, said chapter and Chapter 9, Workforce Housing, stated that the Town should require private developers to provide housing for seventy percent (70%) of total employees generated by a development, to be implemented by amendments to Chapter 16A of the Town of Snowmass Village Municipal Code (Municipal Code); and

WHEREAS, on October 6, 2008, RRC Associates, Inc. provided a PowerPoint presentation to the Town Council titled: "Snowmass Nexus Overview and Housing Policy Discussion" (RRC Report); and

WHEREAS, in November, 2008, RRC Associates, Inc. then provided an "Employee Housing Mitigation Support Study" to the Town; and

WHEREAS, on May 17, 2010, the Town Council directed staff to prepare amendments to Chapter 16A of the Municipal Code as appropriate to implement action items within Chapter 10 of the Comprehensive Plan and recommendations within the RRC Report relating to employee housing mitigation; and

WHEREAS, staff has proposed additional amendments to Chapter 16A, Article IV, Division 4, Standards for Restricted Housing, of the Municipal Code for consideration at this time; and

WHEREAS, the amendments contained in this Ordinance are being processed under the provisions of Section 16A-5-210 of the Municipal Code; and

WHEREAS, the Planning Commission conducted a general discussion regarding employee housing mitigation and potential amendments to Chapter 16A during their January 19, 2010 meeting; and

WHEREAS, the Planning Commission reviewed the proposed amendments on March 2 and 16, 2011, and formalized their recommendations regarding those amendments on March 16 with the adoption of Planning Commission Resolution No. 03, 2011; and

WHEREAS, the Town Council commenced review of the amendments on April 4, 2011; and

WHEREAS, the public hearing notice was published in the Snowmass Sun on March 30, 2011 for the Town Council meeting on April 18, 2011 to further consider Town staff and Planning Commission recommendations and receive public comments; and

WHEREAS, The Town Council has determined that the amendments to the Municipal Code as hereinafter set forth are necessary for the public health, safety and welfare.

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

Section One: General Findings. The Town Council hereby generally finds that:

1. The subject amendments to Chapter 16A of the Municipal Code were initiated by the Planning Director to be processed under the provisions of Section 16A-5-210 of the Municipal Code.
2. All public notification requirements, as specified within Section 16A-5-60(b) of the Municipal Code, have been satisfied.

Section Two: Specific Findings. Specific to the proposed amendments, the Town Council hereby finds that:

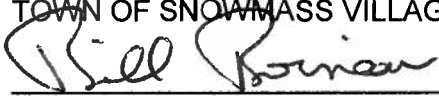
1. The Town Council considered the policy recommendation within Chapter 9, Workforce Housing, of the Comprehensive Plan that stated the Town should require private developers to provide housing for seventy percent (70%) of total employees generated by a development. Both the Planning Commission and Town Council clearly found that a rational nexus exists to establish a 60% mitigation rate based upon information provided by RRC Associates, Inc. indicating that 50% of our current full-time employees live in the Snowmass Village and an additional 10% would like to do so under conditions that are reasonably achievable.
2. The Town Council determined that increasing the obligation of the developer an additional 5-10% may need to be considered at a later date if the demand for said increase is supportable in response to potential future circumstances forecasting changes in the economic, labor pool and community diversity environments.
3. The majority of the amended employee generation rates were based upon the "Snowmass Village 1999/2008 Merged" rates provided within the RRC Associates, Inc. Employee Housing Mitigation Support Study. Using the combined Snowmass Village specific data from 1999 and 2008 results in average employee generation rate that can be comfortably used over an extended period of time, rather than constantly changing with point-in-time economic conditions.

Section Three: Amendments to Chapter 16A. The amendments Article IV, Division 4, Standards for Restricted Housing, and Section 16A-2-20, Definitions, of Chapter 16A of the Municipal Code are hereby amended and restated as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

Section Four: Severability. If any provision of this Ordinance is held invalid, the invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision, and, to this end, the provisions of this Ordinance are severable.

READ, APPROVED AND ADOPTED by the Town Council of the Town of Snowmass Village on First Reading on April 18, 2011 upon a motion by Council Member Butler, the second of Council Member Kucker, and upon a vote of 5 in favor and 0 opposed.

READ, APPROVED AND ADOPTED by the Town Council of the Town of Snowmass Village on Second Reading on May 2, 2011 upon a motion by Council Member Haber, the second of Council Member Kucker, and upon a vote of 4 in favor and 0 opposed.

TOWN OF SNOWMASS VILLAGE

Bill Boineau, Mayor

ATTEST:

Rhonda B. Coxon, Town Clerk

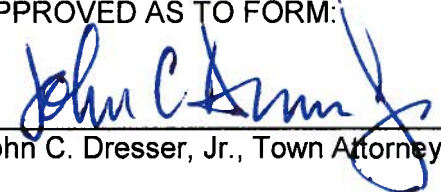
APPROVED AS TO FORM:

John C. Dresser, Jr., Town Attorney

Exhibit "A"

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Amendments to Chapter 16A Town of Snowmass Village Municipal Code

The provisions of Chapter 16A of the Town of Snowmass Village Municipal Code are hereby recommended to be amended and restated as follows:

1. That Section 16A-2-20, Definitions, be amended to add the definitions as follows:

Health Club (General) means an area offering cardiovascular and strength training equipment including electronic cardio machines, free & machine weights and may include aerobic or other physical activity facilities.

Health Club (Spa) means an area in a hotel or resort property offering such amenities as steam baths, saunas, massage, hydrotherapy, face and other body treatments.

Full time equivalent (FTE) shall mean the conversion of part-time work hours to the equivalent number of full-time work hours based on a forty-hour work week.

2. That Section 16A-4-400, Purpose, be amended to read:

To provide adequate housing for persons of low, moderate or middle income, provisions for comfortable and affordable housing in locations approved by the Town Council shall be made to accommodate sixty percent (60%) of new employees generated by development and redevelopment within the Town.

3. That Table 4-5, Employee Generation Rates Per Type Of Use, is hereby amended and restated as follows:

TABLE 4-5 EMPLOYEE GENERATION RATES PER TYPE OF USE	
Type of Use	Number of Employees Generated
Commercial, including general retail, grocery, liquor, convenience	4.93 employees per 1,000 interior square feet
Office: Finance, Legal, Medical & Professional Services	1.97 employees per 1,000 interior square feet
Office: Real Estate & Property Management	4.93 employees per 1,000 interior square feet
Construction	5.16 employees per 1,000 interior square feet
Multi-family-1	0.32 employees per first FSA* within the unit 0.10 employees per each additional FSA* within the unit

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Multi-family-2	0.50 employees per unit or 0.60 employees per unit if in-house property management or rental management
Single-family/duplex	$0.0331 \times e^{(.0005) \times (\text{Residence or duplex unit sq. ft.})}$ where $e = 2.71828$
Hotel/lodge	0.38 employees per FSA*
Ski area restaurants - cafeteria style	3.59 employees per 1,000 interior square feet
Restaurants/Bars	5.9 employees per 1,000 interior square feet
Ski areas	61.95 employees per 1,000 skiers at one time
Conference center	0.97 employees per 1,000 interior square feet
Health club (General)	0.96 employees per 1,000 interior square feet
Health club (Spa)	1.97 employees per 1,000 interior square feet

* FSA: Furnished Sleeping Area

4. That Subparagraphs 1 and 2 of Section 16A-4-410 (e), Redevelopment, are hereby amended and Subparagraph 3 is added as follows:

(1) Redeveloped properties. Except as provided in Subparagraph (3) below, the developer shall receive a credit toward restricted housing requirements of up to one hundred fifteen percent (115%) of the housing mitigation that would be required on the existing square footage and use of the building to be redeveloped as computed in accordance with the provisions of Subsections (a) and (b) above.

(2) Existing employee housing replacement. If any existing square footage currently utilized as employee housing is to be removed, an equal square footage of restricted housing shall be replaced within the development.

(3) Existing FTE employees housed. The developer shall provide verifiable information specifying the maximum number of full time equivalent (FTE) employees, including seasonal employees, housed within non-restricted units at any one time within the development during the year prior to submitting the redevelopment application. This number shall be deducted from the "pre-development employees generated" amount in the redevelopment formula in Subparagraph (f)(2) below unless the redevelopment proposal provides the same units occupied by existing employees, or comparable units, as restricted housing within the development.

5. That Section 16A-4-410(f), Formula, is hereby amended and restated as follows:

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(f) Formula. To calculate the amount of square footage of restricted housing to be provided in accordance with the provisions of this Section, the developer shall utilize the appropriate formula as follows:

(1) New development. (Number of employees generated x 60% x 448 square feet).

(2) Redevelopment. (Number of post-redevelopment employees generated x 448 square feet x 60%) minus (Number of existing pre-redevelopment employees generated minus existing FTE employees housed x 448 square feet x 60% x 115%).

6. That Section 16A-4-410(g), Independent Calculation, is hereby renamed, amended and restated as follows:

(g) Alternative Independent Calculation. An applicant may submit an alternative independent calculation requesting modification to any of the employee generation rates within Table 4-5 above. The alternative independent calculation shall be supported by comparable resort and local data with analysis, surveys, and/or other supporting materials that provide competent substantial evidence supporting the proposed modifications. Such an alternative independent calculation shall be received by the Town as an equally acceptable methodology of determining employee generation rates as the rates contained in Table 4-5. The alternative independent calculation shall then be reviewed by the Town Council. If the materials and information supporting the calculation demonstrate by substantial competent evidence that there is a reasonable basis to modify the employee generation rates because of unique circumstances related to the proposed development, the Town Council may, at its sole discretion, make the appropriate modifications.

7. That Section 16A-4-410(h), Independent Payroll Audit, is hereby added, as follows:

(h) Independent Payroll Audit. In the event of an independent calculation, the Town Council may require the applicant to have an independent payroll audit performed two (2) years following the subject building's occupancy to determine if the number of employees in the project corresponds with the applicant's calculation. The Town Council may waive or extend the date of the Independent Payroll Audit. The applicant and the Town shall agree upon a method for mitigating any additional restricted housing that may be required as a result of the audit and said methodology shall be specified within the Restricted Housing Agreement.

8. That a second paragraph within Section 16A-4-420(2)(c)(1), Restricted rates and use, is hereby added as follows:

A Restricted Housing Agreement shall be entered into between the Town and the developer identifying the conditions of occupancy, maintenance and rental guidelines for the restricted units.

9. That Section 16A-4-420(3), Cash-in-lieu for minor developments, is hereby amended and restated as follows:

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(3) Cash-in-lieu for minor developments. The Town Council may, at its sole discretion, accept cash in lieu of restricted employee housing as defined in this Chapter. Cash in lieu of employee housing shall include the net cost (total cost less the amount covered by rental or sale income) of land and all related planning, design, site development, construction and construction management costs of the project, in current dollars, which would be incurred by the Town in order to provide the required amount of restricted housing, or as agreed to by the Town and developer.

10. That Section 16A-4-420(6), Homeowner's Association, is hereby added to read as follows:

(6) Homeowner's Association. If a restricted housing unit is developed as part of a mixed free market/ restricted housing development project in which both free market and restricted units will be included in the same association, then the documents creating the condominium regime, homeowner's association (HOA) and any covenants, conditions and restrictions (CC&R) shall state that the restricted housing unit shall only be assessed monthly dues and other shared assessments based on whichever of the following two (2) formulas applies:

- a. The size of restricted housing unit in square feet as compared to the total size of the other units in the development; or
- b. The size of the lot on which the restricted housing unit is located as compared to the total size of the other lots in the development.

The Town shall consider the economic effect all assessments may have upon the Town's goal of successfully maintaining reasonable long term affordability of the restricted housing units or lots. The Town Council will evaluate the proposed assessment rates considering the nature of the project, the level of maintenance, types of utilities, services and amenities being provided relative to those of comparable wholly restricted projects. The condominium regime, HOA and any CC&R documents shall state the maximum share of General, Common, Limited, Special or other Assessments allocated to each restricted housing unit or lot and how such documents may be amended in the future within a Restricted Housing Agreement.