



Memorandum

TO: Vail Town Council

FROM: Community Development Department

DATE: September 19, 2017

SUBJECT: Commercial Ski Storage - Update

I. PURPOSE

The purpose of this memo is to update the Town Council on issues and progress relating to the Town's commercial ski storage regulations and to present a draft of the text amendments necessary to update these regulations. There are also a few questions that need to be answered by the Town Council to ensure clarity of the policy.

The Town Council is asked to review the questions, and draft text amendments and provide feedback on changes or additional information that may be necessary before moving forward with a formal prescribed regulations amendment.

II. BACKGROUND

As the Town Council is aware from previous discussion on this topic, the Town's current regulations of ski storage, ski valet and ski concierge services have not kept pace with the evolving nature of the ski industry. As a result, the Town is experiencing the following challenges with the current regulations on commercial ski storage:

- Regulations that are ambiguous and vague
- Regulations that are inconsistent with evolving customer expectations;
- Regulations that are difficult and/or impractical to enforce, resulting in a perception of inconsistent enforcement; and
- Regulations that may have resulted in unintended consequences, most notably considerable storage of ski equipment outside that has both safety and aesthetic implications.

On September 5, 2017, the Community Development Department presented the Commercial Ski Storage Task Force's recommendations to the Town Council. The

Town Council supported the recommendations, and directed staff to begin to draft text amendments to implement the changes.

III. RECOMMENDATIONS OF THE TASK FORCE

At the last meeting with Town Council on this issue, the Council agreed with the recommendations of the Task Force concerning commercial ski storage. The current policy permits Commercial Ski Storage/Ski Clubs only in the basement or garden level of a building in the following districts:

- Commercial Core 1 (CC1)
- Commercial Core 2 (CC2)
- Lionshead Mixed Use-1 (LMU-1)
- Lionshead Mixed Use-2 (LMU-2)
- Ski Base Recreation -2 (SBR-2)

Following is a summary of the Task Force recommendations:

- Keep the existing horizontal zoning in place, which only allows Commercial Ski Storage and Ski Clubs as a permitted use on the basement or garden level of a structure
- Add graphics to improve the definitions for the following:
 - First floor of street level
 - Basement or garden level
- Separate the definitions for Commercial Ski Storage and Ski Club
- Create a separate definition for Ski Storage Lockers
- Set time of day limits on the placement of ski racks outside of a business
- Do not set limits on the number of racks placed on private property
- Ensure that public pedestrian easements are not blocked by ski racks
- Consider removing code language on outdoor displays stating that an outdoor display “shall not visually detract from or block storefront or shop window”
- Clarify that a building used for delivery of skis to guests of a hotel, which is separated from the hotel property, is considered Commercial Ski Storage (i.e. Four Seasons at Gorsuch on Wall Street)

IV. WHAT ARE THE IMPACTS OF THESE REGULATIONS?

Depending on the amendments that are adopted by the Town Council, there may be impacts to local business, the guest experience, code enforcement, or other unintended consequences. After further consideration of these changes and clarifications, the following questions must be answered by the Town Council in order to have clarity on these regulations:

1. Several businesses in Town currently place racks of skis outside their business during the day, and then roll these racks onto the first floor of the business at night, when the business is closed. These are usually racks for skis that are

rented to a customer, and then returned to the same rental shop each night. In some cases, these racks may be for skis belonging to hotel guests, and the hotel has an agreement with the ski shop for storage of the skis.

- **Is this considered “Commercial Ski Storage”? If it is, then it is currently prohibited on the first floor.**
 - **How is this operation distinguished from storage of private skis for an individual?**
 - **If it is not considered “Commercial Ski Storage”, then what is it?**
 - **Is the Town Council comfortable with other businesses following this business model, which may lead to more floor area dedicated to ski racks, and less floor area dedicated to retail sales?**
 - **There may also be fire and safety issues with too many racks of skis blocking emergency access inside a business.**
2. Ski Clubs are currently permitted only in the basement or garden level. There is at least one Ski Club that currently operates on upper level of a building, which was permitted as the result of a determination of similar use by a previous Council. In that case, the Ski Club was determined to be similar to an “Eating and drinking establishment”. Many ski clubs have a significant ski storage aspect to the club.
- **Should Ski Clubs be permitted on the second floor or above?**
 - **If so, this would be a change in policy.**
 - **The Task Force recommended no policy changes.**
3. The Task Force recommended adding language to prohibit placement of ski racks on access easements. After further research, it appears that many developments in Vail Village and Lionshead are surrounded by pedestrian access easements. For example, Arrabelle at Vail Square, the Hill Building, and Concert Hall Plaza each have significant access easements in front of shop entrances. Prohibiting racks of skis on easements would severely impact businesses that operate in these developments.
- **Should placing racks of skis on pedestrian easements be prohibited?**
 - **Is there a size or number of racks that would be acceptable?**
 - **This language may not be needed, as each easement is different and requires a case-by-case review, and may require a legal opinion based on the specific language in the easement document.**
4. The Task Force recommended that Commercial Ski Storage and Ski Clubs be defined separately, to improve clarity in the regulations. During staff’s review of this recommendation, it was determined that there exists very few differences between the two uses and those differences do not necessitate different regulatory approaches. As such, staff believes that separate definitions are not warranted.

- **Should there be separate definitions of Commercial Ski Storage and Ski Club?**

Following are the proposed text amendments, based on the recommendations of the Task Force and previous direction from Town Council.

(New language is shown in **bold and underline**. Language proposed for removal is shown in strikethrough.)

Title 8 – Outdoor Display on Town Property

8-7-1: PURPOSE:

The purpose of this chapter is to provide standards for the licensed use of town owned property by retail establishments for outdoor display of goods. Businesses that are located in buildings without adequate privately owned exterior space may obtain a license to use adjacent town owned property for outdoor display of goods, for the purpose of increasing the vibrancy and economic vitality of the commercial cores. (Ord. 32(2007) § 2)

8-7-2: DEFINITIONS:

ADMINISTRATOR: *The director of the department of community development and/or his or her designee that administers and enforces the guidelines outlined in this chapter.*

FRONTAGE, BUSINESS: *The horizontal, linear dimension of any side of an above grade level that faces a major vehicular or pedestrian way and has its own public entrance for the exclusive use of said business.*

OUTDOOR DISPLAY: *A temporary outdoor arrangement of objects, items, or products representative of the merchandise sold or rented by a retail establishment, and further regulated by section [12-14-21](#) of this code.*

PUBLIC WAY: *Means and includes a public street, easement, right of way, highway, alley, way, place, road, or bike path; and any nonexclusive utility easement.*

RETAIL ESTABLISHMENT: *Any licensed business within the town of Vail with a physical location that is open to the public for the purpose of selling, leasing or renting tangible personal property or services at retail. (Ord. 32(2007) § 2)*

8-7-3: OUTDOOR DISPLAY OF GOODS REGULATED:

It shall be unlawful to place or maintain any outdoor display of goods on town

owned property or on other publicly owned sidewalks or rights of way without complying with the provisions of this chapter. (Ord. 32(2007) § 2)

8-7-4: PERMIT REQUIRED:

It is unlawful for any person or retail establishment to utilize town owned property or other publicly owned sidewalks or rights of way without first securing an outdoor display on public property permit. Such permit shall be issued by the administrator and shall be pursuant to the requirements of this chapter. Permits may be approved for a time period of up to two (2) years. Permits shall be automatically renewed for additional two (2) year terms unless otherwise terminated. Prior to final approval of a permit, the retail establishment shall enter into a license agreement with the town of Vail, to be executed by the town attorney. Permit applications, application requirement, application fees and license fees are on file with the department of community development. (Ord. 32(2007) § 2)

8-7-5: ADMINISTRATIVE ACTION:

The administrator shall review the application and make a determination of approval, approval with modifications, or denial within thirty (30) days of submittal of a complete application. The determination by the administrator shall become final at the next planning and environmental commission public hearing following the administrator's decision, unless the decision is called up for review by the commission. Determinations shall be based on the criteria in section [8-7-6](#) of this chapter. All appeals shall follow the procedures outlined in section [12-3-3](#), "Appeals", of this code. (Ord. 32(2007) § 2)

8-7-6: CRITERIA FOR DECISION:

Outdoor display of goods on town owned property or on publicly owned right of way shall be lawful at specific locations for use by a specific retail establishment approved by the administrator. Retail establishments may be allowed to utilize town owned property for the use of outdoor display should the following conditions be met:

A. Zone District: The retail establishment shall be located in one of the following zone districts:

- 1. Commercial core 1 (CC1) district.*
- 2. Commercial core 2 (CC2) district.*
- 3. Lionshead mixed use 1 (LMU-1) district.*
- 4. Lionshead mixed use 2 (LMU-2) district.*
- 5. Ski base/recreation 2 (SBR2) district.*

B. Area: The area of town owned property to be utilized shall be a maximum of twenty (20) square feet for retail establishments. Businesses displaying bicycles may be permitted to license additional square footage of town owned property at the discretion of the administrator.

C. Location: The property to be licensed shall be a contiguous piece of property that is directly adjacent to the business frontage.

*D. Circulation: The use of town owned property for outdoor display shall not impede circulation and thus, shall not block or encroach upon the required ingress/egress of doorways, walkways, stairways, and parking or loading/delivery spaces. **The placement of ski racks on pedestrian or vehicular access easements is prohibited.***

E. Street And Sidewalk Width: A minimum street width of twenty two feet (22') shall be maintained in order to allow for emergency vehicle access. Sidewalks shall remain a minimum width of six feet (6'). Connection of exit discharge to the public way, as required by the adopted building code, shall not be blocked.

F. Public Safety: The use of town owned property for outdoor display shall not pose any risks to public safety. The use of town owned property for outdoor display shall not block or encroach upon any fire lane, fire staging area, and shall maintain a minimum distance to fire hydrants of seven feet (7') to side or rear, and fourteen feet (14') to the front.

G. Maintenance Access: The use of town owned property for outdoor display shall not block or impede street sweeping, snow removal or snow storage/loading operations. The use of town owned property for outdoor display shall not block access to trash receptacles, dumpsters, mailboxes, manholes, water valves, flowerbeds or other landscape areas.

H. Aesthetics: The use of town owned property for outdoor display shall not negatively impact established view corridor or acknowledged "postcard" images and shall not visually detract from, or block, storefront or shop windows.

I. Lack Of Available Space: Retail establishments may only be located on a site without twenty (20) square feet of privately owned exterior space adjacent to the business frontage.

J. Outdoor Display Fixtures: Outdoor display fixtures shall be freestanding, temporary in nature, and shall be removed from the exterior location when the business is closed.

K. Code Compliance: All aspects of the outdoor display shall remain in compliance with this code and the Vail comprehensive plan. (Ord. 32(2007) § 2)

L. Ski Racks: The outdoor placement of racks used for display of skis or the distribution and/or collection of rental skis, shall be prohibited between the hours of 9:00 PM and 7:00 AM.

Title 12 – Definitions

12-2-2: DEFINITIONS OF WORDS AND TERMS

COMMERCIAL SKI STORAGE/SKI CLUB: Storage for equipment (skis, snowboards, boots and poles) and/or clothing used in skiing related sports, which is available to the public or members, operated by a business, club or government organization, and where a fee is charged for hourly, daily, monthly, seasonal or annual usage. This use may have, but does not require, the following components:

- A. Personal lockers,
- B. Boot dryers,
- C. Ski storage racks,
- D. Ski tuning,
- E. Food and beverage service,
- F. Areas for congregation and/or socializing,
- G. Restrooms and/or shower facilities,
- H. Nonwinter activities,
- I. Concierge ski services,
- J. Retail sales,
- K. Business center.

*Ski storage that is part of a lodge, or dwelling unit, in which a fee is not charged, is not considered commercial ski storage/ski club. **A building separated from the hotel property that is used for ski storage or delivering skis to a guest is considered commercial ski storage, and is not exempt from this definition.***

Ski Club - A private membership organization, catering exclusively to members and guests for social, recreational and athletic purposes, who

pay a fee on daily, monthly, seasonal or annual basis, and which is focused primarily around skiing and similar winter outdoor sports.

Ski Storage Lockers - Storage for equipment (skis, snowboards, boots and poles) and/or clothing used in skiing related sports, located within a designated enclosure or cabinet which is available hourly, daily, monthly, seasonal or annual usage.

Title 12 – Outdoor Display on Private Property

12-14-21: OUTDOOR DISPLAY OF GOODS:

A. Purpose: The purpose of this section is to establish regulations for the outdoor display of goods by retail establishments.

B. Applicability: Outdoor display of goods shall be permitted by retail establishments in the following zone districts and shall be prohibited in all zone districts not listed:

- 1. Housing (H) district;*
- 2. Commercial core 1 (CC1) district;*
- 3. Commercial core 2 (CC2) district;*
- 4. Commercial core 3 (CC3) district;*
- 5. Commercial service center (CSC) district;*
- 6. Lionshead mixed use 1 (LMU-1) district;*
- 7. Lionshead mixed use 2 (LMU-2) district;*
- 8. Ski base/recreation 2 (SBR2) district.*

C. Permit Not Required: Outdoor display on private property, where permitted by the provisions of this title, are not subject to design review. A permit is required to obtain a license to utilize town owned property for outdoor display of goods by retail establishments, per [title 8, chapter 7](#) of this code.

D. Requirements For Outdoor Display: Where permitted, outdoor display shall be subject to the following limitations:

1. Location: The area used for an outdoor display shall be located directly in front of the retail establishment displaying the goods. Outdoor display shall be entirely upon the establishment's own property unless the retail establishment is permitted to utilize town owned property, per the requirements in [title 8, chapter 7](#) of this code.

*2. Circulation: Outdoor display shall not impede circulation and thus, shall not block or encroach upon the required ingress/egress of doorways, walkways, stairways, and parking or loading/delivery spaces. **The placement of ski racks on pedestrian or vehicular access easements is prohibited.***

3. *Street And Sidewalk Width: A minimum street width of twenty two feet (22') shall be maintained in order to allow for emergency vehicle access. Sidewalks shall remain a minimum width of six feet (6'). Connection of exit discharge to the public way, as required by the adopted building code, shall not be blocked.*

4. *Public Safety: Outdoor display shall not pose any risks to public safety, shall not block or encroach upon any fire lane, and shall maintain a minimum distance to fire hydrants of seven feet (7') to side or rear, and fourteen feet (14') to the front.*

5. *Aesthetics: Outdoor display shall not negatively impact established view corridors or acknowledged "postcard" images and shall not visually detract from or block storefront or shop window.*

6. *Outdoor Display Fixtures: Outdoor display fixtures shall be freestanding, temporary in nature, and shall be removed from the exterior location when the business is closed.*

7. *Height: No part of any outdoor display shall extend more than six feet (6') above existing grade.*

8. *Signage: Sale signs may be permitted on outdoor displays, as regulated by subsection [11-6-3F](#) of this code. No other signage is permitted on or adjacent to outdoor displays that is not otherwise approved by the administrator, subject to the regulations of [title 11](#) of this code.*

9. *Cardboard Boxes Prohibited: Outdoor display of goods shall not include any cardboard boxes, unless part of individual packaging of goods.*

10. *Code Compliance: All aspects of the outdoor display shall remain in compliance with this code and the Vail comprehensive plan. (Ord. 32(2007) § 13)*

11. *Ski Racks: The outdoor placement of racks used for display of skis or the distribution and/or collection of rental skis, shall be prohibited between the hours of 9:00 PM and 7:00 AM.*

V. NEXT STEPS

The next step in this process is for the Community Development Department to present a Prescribed Regulation Amendment to the Planning and Environmental Commission for formal adoption. During the PEC meeting of September 11, 2017, the PEC requested an additional work session to review the draft code amendments before seeing reviewing a formal application. We plan to present the draft amendments to the PEC on September 25, 2017.

Following are the upcoming meeting dates on this topic:

- PEC - September 25, 2017 – Present draft text amendments
- PEC - October 9, 2017 – Public hearing and recommendation on text amendments
- Town Council - October 17, 2017 – Town Council – 1st Reading of Ordinance on text amendments
- Town Council - November 7, 2017 – 2nd Reading of Ordinance on text amendments
- November 17, 2017 – Vail Mountain Opening Day