



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: November 13, 2017

SUBJECT: A request for a recommendation to the Vail Town Council, pursuant to Section 12-3-7, Amendment, Vail Town Code, for prescribed regulations amendments to Title 12, Development Standards, Vail Town Code, related to vegetation removal for wildfire mitigation purposes, and setting forth details in regard thereto. (PEC17-0043)

Applicant: Town of Vail  
Planner: Jonathan Spence

## I. SUMMARY

This is a proposal to clarify and codify existing standard operating procedures related to vegetation removal. The Town of Vail currently requires a Design Review Board (DRB) application for the removal of vegetation, including trees, when not associated with another development application. The Town of Vail Fire and Emergency Services Department also issues permits for tree removal through a Wildfire Hazard Assessment as part of the Fire Adapted Vail Program. The proposal removes the requirement for a DRB permit following a recommendation by the Wildland Coordinator concerning vegetation removal.

Based upon staff's review of the criteria outlined in Section VI of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission forward a **recommendation of approval** to the Vail Town Council for the proposed Prescribed Regulations Amendment.

## II. DESCRIPTION OF REQUEST

This is a request for a recommendation to the Vail Town Council to clarify and codify existing standard operating procedures related to vegetation removal. Currently there are two (2) owner-initiated processes for the removal of vegetation in the Town of Vail. They are:

1. Design Review Board application for the removal of vegetation not associated with a development application.

2. Wildfire Hazard Assessment as part of the Fire Adapted Vail Program performed by the Wildlands Coordinator.

The purpose of the proposed text amendment is to clarify that these processes do not conflict with language in the Vail Town Code and that duplicate approvals for vegetation removal are not necessary.

### III. BACKGROUND

The Community Development Department strives for rules and regulations that are consistent, enforceable, predictable and easily understood. The Community Development Department has worked closely with the Vail Fire and Emergency Services Department to ensure that the criteria used to evaluate requests for vegetation removal are consistent. Water Quality Education Coordinator Pete Wadden and Wildlands Coordinator Paul Cada have established a clear protocol including interdepartmental reporting to guarantee that all Town values, including defensible space, environmental quality and aesthetics are considered regardless of the department approving vegetation removal.

### IV. APPLICABLE PLANNING DOCUMENTS

Title 12 – Zoning Regulations, Vail Town Code

*Section 3-7 Amendment (in part)*

*A. Prescription: The regulations prescribed in this title and the boundaries of the zone districts shown on the official zoning map may be amended, or repealed by the town council in accordance with the procedures prescribed in this chapter.*

*B. Initiation:*

*1. An amendment of the regulations of this title or a change in zone district boundaries may be initiated by the town council on its own motion, by the planning and environmental commission on its own motion, by petition of any resident or property owner in the town, or by the administrator.*

*2. A petition for amendment of the regulations or a change in zone district boundaries shall be filed on a form to be prescribed by the administrator. The petition shall include a summary of the proposed revision of the regulations, or a complete description of proposed changes in zone district boundaries and a map indicating the existing and proposed zone district boundaries. If the petition is for a change in zone district boundaries, the petition shall include a list of the owners of all properties within the boundaries of the area to be rezoned or changed, and the property adjacent thereto. The owners' list shall include the names of all owners, their mailing and street addresses, and the legal description of the property owned by each. Accompanying the list shall be stamped, addressed envelopes to each owner to be used for the mailing of the notice of hearing. The petition also shall include such additional information as prescribed by the administrator.*

## V. PROPOSED TEXT AMENDMENT

The following amendments are proposed with new language in **bold** and items to be removed designated by a ~~strikethrough~~.

### **12-11-3: DESIGN APPROVAL**

*A. Scope: No person shall commence removal of vegetation, site preparation, building construction or demolition, dumping of material upon a site, sign erection, exterior alteration or enlargement of an existing structure, paving, fencing or other improvements of open space within the corporate limits of the town unless design approval has been granted as prescribed in this chapter. The addition of plant materials to existing landscaping, gardening, ~~and landscape~~, **and vegetation removal approved by the Vail Fire Department through a Wildfire Hazard Assessment** shall be exempt from this provision.*

## VI. REVIEW CRITERIA

Section 12-3-7(C)(2) of the Zoning Regulations identifies the criteria that the Planning and Environmental Commission must consider before making a recommendation for a change to the text of the code. These criteria include the following:

### **1. The extent to which the text amendment furthers the general and specific purposes of the zoning regulations; and**

The proposed text amendment furthers the general and specific purposes of the zoning regulations by clearly informing potential applicants and property owners that a Design Review Board approval is not necessary for vegetation approved for removal by the Vail Fire and Emergency Services Department as part of a Wildfire Hazard Assessment. This text amendment will codify the existing practice of the Community Development and Fire and Emergency Services Departments and helps to improve the clarity of the code. This text amendment meets the following purposes of the zoning regulations:

#### 12-1-2 A

*General: These regulations are enacted for the purpose of promoting the health, safety, morals, and general welfare of the town, and to promote the coordinated and harmonious development of the town in a manner that will conserve and enhance its natural environment and its established character as a resort and residential community of high quality.*

#### 12-1-2 B

*5. To conserve and maintain established community qualities and economic values.*

*6. To encourage a harmonious, convenient, workable relationship among land uses, consistent with municipal development objectives.*

*9. To conserve and protect wildlife, streams, woods, hillsides, and other desirable natural features.*

*11. To otherwise provide for the growth of an orderly and viable community.*

Staff finds this criterion to be met.

**2. The extent to which the text amendment would better implement and better achieve the applicable elements of the adopted goals, objectives, and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and**

The proposed text amendment is compatible with the development objectives of the town. This change will establish clear and consistent language in the Vail Town Code. Following are some of the relevant goals of the Town's Comprehensive Plan:

- Goal #1: Vail will continue to manage growth, maintaining a balance between the bulk and mass of residential, commercial and recreational uses to ensure the quality, character, diversity and vitality of the town by ensuring that all regulatory and advisory land use documents are updated and current, providing ease of compliance and enforcement, and uniformity among regulatory and advisory documents.
- Goal #3: Ensure fairness and consistency in the development review process.

Staff finds this criterion to be met.

**3. The extent to which the text amendment demonstrates how conditions have substantially changed since the adoption of the subject regulation and how the existing regulation is no longer appropriate or is inapplicable; and**

The amendment is in response to a lack of clarity within existing regulations. As a matter of practice, the Community Development Department has not required an additional Design Review Board application for work approved by the Fire and Emergency Services Department. The proposed text amendment will codify this practice.

Staff finds this criterion to be met.

**4. The extent to which the text amendment provides a harmonious, convenient, workable relationship among land use regulations consistent with municipal development objectives; and**

The proposed text amendment provides a clear understanding of when a Design Review Board application is required and ensures that regulations are consistent with municipal development objectives.

As a result, staff finds this criterion to be met.

**5. Such other factors and criteria the planning and environmental commission and/or council deem applicable to the proposed text amendment.**

## **VII. STAFF RECOMMENDATION**

Based upon the analysis of the review criteria contained in Section VI of this memorandum and on the evidence and testimony presented, the Community Development Department recommends that the Planning and Environmental Commission make a recommendation to the Vail Town Council to **approve** the proposed Prescribed Regulations Amendment pursuant to Section 12-3-7, Amendment, Vail Town Code, for prescribed regulations amendments to Title 12, Development Standards, Vail Town Code, related to vegetation removal for wildfire mitigation purposes. (PEC17-0043)

If the Planning and Environmental Commission chooses to recommend **approval** of the proposed text amendment, the Community Development Department recommends the following **motion**:

“The Planning and Environmental Commission forwards a recommendation of **approval** to the Vail Town Council for Prescribed Regulations Amendment pursuant to Section 12-3-7, Amendment, Vail Town Code, for prescribed regulations amendments to Title 12, Development Standards, Vail Town Code, related to vegetation removal for wildfire mitigation purposes, and setting forth details in regard thereto.”

Should the Planning and Environmental Commission choose to forward a recommendation of approval to the Vail Town Council for the proposed Prescribed Regulation Amendment, the Community Development Department recommends the Commission makes the following **findings**:

*"Based upon the review of the criteria outlined in Section VI of the Community Development Department memorandum dated November 13, 2017 and the evidence and testimony presented, the Planning and Environmental Commission finds:*

- 1. That the amendment is consistent with the applicable elements of the adopted goals, objectives and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and*

2. *That the amendment furthers the general and specific purposes of the zoning regulations; and*
3. *That the amendment promotes the health, safety, morals, and general welfare of the town and promotes the coordinated and harmonious development of the town in a manner that conserves and enhances its natural environment and its established character as a resort and residential community of the highest quality.*