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**Memorandum**

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: June 24, 2019

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, Zoning Regulations, Vail Town Code, to clarify the permitted location of business activities in the commercial, business and mixed use zone districts, and setting forth details in regard thereto. (PEC19-0021)

Applicant: Matt Mire, Town of Vail  
Planner: Jonathan Spence

## **I. SUMMARY**

This is a proposal to clarify and codify the permitted location for business activities in the commercial, business and mixed use zone districts. The Town of Vail has experienced an increase in the practice of business operators soliciting potential customers who are not located on premise. It is the intent of this proposed amendment to clarify that this type of activity is not permitted.

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 the permitted location for business activities in the commercial, business and mixed use zone districts. The proposed amendment will add language to the existing regulations in all commercial, business and mixed use zone districts, other than Public Accommodation (PA) and Public Accommodation-2 (PA-2), to further clarify the acceptable location for business activity. This amended language is also intended to be added to the PA and PA-2 Districts where it is believed its omission is in error.

Please see Section V of the report for the existing and proposed language.

### III. BACKGROUND

Since the adoption of the first comprehensive zoning regulations in the Town of Vail in 1973, the Town has restricted business activity to be operated and conducted entirely within a building with the exception of permitted unenclosed parking and loading areas or the outdoor display of goods. This restriction has a significant beneficial effect on the community character within the commercial, business and mixed use areas by prohibiting business activity inconsistent with the Vail Brand. These prohibited activities include vending, hawking and the solicitation of sales. The Town of Vail permits types of business activity that is traditionally not conducted within a building through the Special Events process.

With the exception of the Public Accommodation (PA) and Public Accommodation-2 (PA-2) zone districts, all commercial, business and mixed use zone districts have identical language concerning the location of business activity. It is believed that the omission in the PA and PA-2 Districts is in error.

The Town of Vail has experienced an increase in the practice of business operators soliciting potential customers who are not located on premise. While the Town Attorney believes existing regulations address this, it is the intent of this proposed amendment to further clarify that this type of activity is not permitted.

### 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**

Sections 12-7B-18, 12-7C-14, 12-7D-11, 12-7E-13, 12-7F-14, 12-7G-12, 12-7H-17 and 12-7I-17 are proposed to be modified as follows (new language in bold):

Proposed Language:

A. Limitations; Exception: All offices, businesses, and services permitted by Sections 12-XX-Z through 12-XX-Z shall be operated and conducted entirely within a building, except for permitted unenclosed parking or loading areas, and the outdoor display of goods. **For purposes of this Section, "conducted entirely within a building" means that all activities related to the permitted use, including contacting potential customers and clients, must occur completely inside of a building, and not in an open doorway of the building.**

B. Outdoor Displays: The area to be used for an outdoor display shall be located directly in front of the establishment displaying the goods and entirely upon the establishment's own property. Sidewalks, building entrances and exits, driveways and streets shall not be obstructed by outdoor displays.

**The revised language (paragraphs A and B above) are also proposed to be incorporated into Articles A and J (Public Accommodation (PA) and Public Accommodation-2 (PA-2) which currently do not have language concerning locations of business activity.**

## **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 the business community on acceptable locations for business activity. 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.*

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 regarding the regulation of business activity location in recognition of its effects on the Town's residents and guests. The following are relevant goals of the Town's Comprehensive Plan:

Vail Land Use Plan:

- Goal # 4.3. The ambiance of the Village is important to the identity of Vail and should be preserved. (Scale, alpine character, small town feeling, mountains, natural settings, intimate size, cosmopolitan feeling, environmental quality.)

Vail Village Master Plan:

- Goal #2: To foster a strong tourist industry and promote year-round economic health and viability for the Village and for the community as a whole.
- Goal #3: to recognize as a top priority the enhancement of the walking experience throughout the Village

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 need to further clarify the existing regulation in light of recent business activity. The amendment builds upon the existing regulation, providing the business community with a clear understanding of acceptable locations for business activity.

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 acceptable locations for business activity providing a workable relationship between business operations and the enjoyment of our residents and guests within the commercial and mixed use areas of the community.

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 amendments, pursuant to Section 12-3-7, Amendment, Vail Town Code, for prescribed regulations amendments to Title 12, Zoning Regulations, Vail Town Code, to clarify the permitted location of business activities in the commercial, business and mixed use zone districts, and setting forth details in regard thereto. (PEC19-0021)

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, Zoning Regulations, Vail Town Code, to clarify the permitted location of business activities in the commercial, business and mixed use zone districts, 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 June 24, 2019 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.*