



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: August 26, 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, and Title 14, Development Standards, Vail Town Code, to amend the regulations on building design and landscaping in the Wildland Urban Interface to reduce the risk of wildfire, and setting forth details in regard thereto. (PEC18-0035)

Applicant: Town of Vail, represented by Paul Cada, Wildland Program Manager
Planner: Chris Neubecker

I. SUMMARY

The applicant, the Town of Vail, represented by Paul Cada, Wildland Program Manager, requests the review of a prescribed regulation amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Title 12, Zoning Regulations, and Title 14, Development Standards, Vail Town Code, relating to building design and landscaping in order to reduce the risk of wildfire.

Based upon Staff's review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission (PEC) **forward a recommendation of approval** to the Vail Town Council, of this application, subject to the findings noted in Section VIII of this memorandum. The applicant's narrative (Attachment A) and the proposed text amendments (Attachment B, C and D) are attached for your review.

II. DESCRIPTION OF REQUEST

The applicant is proposing to amend the Vail Town Code to implement new regulations on building design and landscaping to reduce the risk of wildfire. These regulations would include changes to permitted exterior building materials, changes to landscaping design requirements, and new requirements for the creation of defensible space. The proposed regulations would apply anywhere within the Town of Vail for new construction and additions in excess of 500 square feet.

III. BACKGROUND

The International Wildland Urban Interface Code was presented to the Building and Fire Code Appeals Board at seven meetings during 2018 and 2019. After significant discussions with the Building and Fire Code Appeals Board, the Board recommended a change in approach. Rather than adopting the International Wildland Urban Interface Code in its entirety, the Board recommended a simplified approach whereby our existing regulations would be amended, rather than adopting a new code book.

Staff presented the proposed text amendments to the Design Review Board on two occasions to gain feedback on the proposed language. On August 7, 2019 the Design Review Board voted 5-0 to recommend adoption of the proposed text amendments, with the condition that language be added to Section 14-10-5-B3b, Vail Town Code, directing users to the Town's adopted building code for a definition of combustible siding.

IV. PROPOSED TEXT AMENDMENT LANGUAGE

The Prescribed Regulation Amendments proposed may be found in Attachment B - D. The proposed changes are centered on three main concepts:

1. Identifying the entire Town of Vail as being within a wildfire hazard zone, and at risk from the spread of wildfires.
2. Requiring all new structures and major additions (over 500 square feet) within the Town to be constructed in a manner to resist ignition from wildfire flames and embers through ignition resistant construction design.
3. Requiring all new landscaping within the Town to use fire resistant design and defensible space.

V. ROLES OF REVIEWING BODIES

Order of Review: Generally, text amendment applications will be reviewed by the Planning and Environmental Commission and the Commission will forward a recommendation to the Town Council. The Town Council will then review the text amendment application.

Planning and Environmental Commission:

The Planning and Environmental Commission is responsible for the review of a text amendment application, pursuant to Section 12-3-7, Amendment, Vail Town Code, and forwarding of a recommendation to the Town Council.

Design Review Board:

The Design Review Board has no review authority over a text amendment to the Vail Town Code. The Design Review Board may be consulted on text amendments relating to design, and may make a recommendation to the Town Council.

Town Council:

The Town Council is responsible for final approval, approval with modifications, or denial of a text amendment application, pursuant to Section 12-3-7, Amendment, Vail Town Code.

Staff:

The Town Staff facilitates the application review process. Staff reviews the submitted application materials for completeness and general compliance with the appropriate requirements of the Town Code. Staff also provides the Planning and Environmental Commission a memorandum containing a description and background of the application; an evaluation of the application in regard to the criteria and findings outlined by the Town Code; and a recommendation of approval, approval with modifications, or denial.

VI. APPLICABLE PLANNING DOCUMENTS

Staff believes that following provisions of the Vail Town Code and Vail Land Use Plan, and are relevant to the review of this proposal:

Vail 2020 Strategic Action Plan*Environmental Sustainability*

Goal #3: Ecosystem: Improve the health and diversity of the forest and mountain ecosystem while recognizing the interdependence of the wildland urban interface (WUI) corridor within Vail.

Actions/Strategies

- *Research potential code amendments to further protect homes from wildland fires.*

2018 Open Lands Plan Update*Chapter 3 - Wildfire and Safety Considerations*

The Vail Fire & Emergency Services is involved in ongoing efforts to manage vegetation to minimize the potential threat of wildfire in and around Vail. Wildfires do not recognize Town or property boundaries and the Department's mitigation efforts are not limited to Town owned lands. That said, any decisions regarding management of the Town's open lands should be coordinated with the Department's wildfire mitigation efforts. Any new recreation trails, whether located on Town land or on USFS lands, should also involve coordination with Vail Fire and Emergency Services. Considerations to be addressed include emergency provider access to trails and mitigation of hazards that may be presented by standing-dead lodgepole located proximate to any new trails.

Vail Town Code

Title 12, Zoning Regulations, Vail Town Code

CHAPTER 12-1, TITLE, PURPOSE AND APPLICABILITY (in part)

Section 12-1-2: Purpose:

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.

B. Specific: These regulations are intended to achieve the following more specific purposes:

- 1. To provide for adequate light, air, sanitation, drainage, and public facilities.*
- 2. To secure safety from fire, panic, flood, avalanche, accumulation of snow, and other dangerous conditions.*
- 3. To promote safe and efficient pedestrian and vehicular traffic circulation and to lessen congestion in the streets.*
- 4. To promote adequate and appropriately located off street parking and loading facilities.*
- 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.*
- 7. To prevent excessive population densities and overcrowding of the land with structures.*
- 8. To safeguard and enhance the appearance of the town.*
- 9. To conserve and protect wildlife, streams, woods, hillsides, and other desirable natural features.*
- 10. To assure adequate open space, recreation opportunities, and other amenities and facilities conducive to desired living quarters.*
- 11. To otherwise provide for the growth of an orderly and viable community. (Ord. 8(1973) § 1.100)*

12-3-7: AMENDMENT:

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.

C. Criteria And Findings:

2. Prescribed Regulations Amendment:

a. Factors, Enumerated: Before acting on an application for an amendment to the regulations prescribed in this title, the planning and environmental commission and town council shall consider the following factors with respect to the requested text amendment:

(1) The extent to which the text amendment furthers the general and specific purposes of the zoning regulations; and

(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

(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

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

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

b. Necessary Findings: Before recommending and/or granting an approval of an application for a text amendment the planning and environmental commission and the town council shall make the following findings with respect to the requested amendment:

(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.

VII. CRITERIA FOR REVIEW

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

The proposed text amendments further the general and specific purposes of the zoning regulations by helping to secure the community from fire danger and by reducing the risks of wildfires.

The proposed changes will require building materials and landscaping designs that help reduce the spread of fire through use of ignition resistant materials, separation of structures from landscaping, and defensible space. These regulations are designed to require compliance with new construction, but also to provide exemptions for small additions of less than 500 square feet of gross floor area, and less than 25% of a deck surface area or structure.

Staff finds that this criterion has been 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

Staff finds that the proposed prescribed regulations amendments will better implement or achieve the applicable elements of the adopted goals, objectives, and

policies outlined in the Vail Comprehensive Plan. The Vail 2020 Strategic Action Plan and the 2018 Open Lands Plan Update support efforts to reduce the risks of wildfires. Additionally, the Town is currently working on a Community Wildfire Protection Plan to help the Town of Vail incorporate Fire Adapted Community recommendations into community design and maintenance, and to help the community take the next step in wildfire preparedness.

Staff finds that this criterion has been met.

3. 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

Conditions have changed since the adoption of the current regulations. Climate change has caused Colorado's average temperature to rise by two degrees Fahrenheit in the past 30 years¹. Projections indicate that the state's average temperature could be five degrees higher by 2050². Rising temperatures result in drier forest conditions and heightened wildfire probability. As a result, additional measures are needed in the Town of Vail to plan for, and attempt to reduce, the risk of wildfires.

Staff finds that this criterion has been 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

Staff finds that this text amendment will ensure a harmonious, convenient, workable relationship among land use regulations consistent with the Town's development objectives. The proposed text amendments would apply to new construction, and to additions of 500 square feet or larger of gross floor area. A definition of gross floor area is proposed with these amendments. Over time, these regulations will make the community safer from the risks of wildfires, and will help to reduce the spread of fires.

Staff finds that this criterion has been met.

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

VIII. ENVIRONMENTAL IMPACTS

¹ Lukas, Jeff, et. al. (August 2014). "Climate Change in Colorado." Pg. 2. Available at: <http://cwcbweblink.state.co.us/WebLink/ElectronicFile.aspx?docid=191995&searchid=e3c463e8-569c-4359-8ddd-ed50e755d3b7&dbid=0>

² Coupled Modeling Intercomparison Project Phase 5 (CMIP5) Projections. Available at: <http://cmip-pcmdi.llnl.gov/cmip5/>

The Community Development has not identified any significant negative environmental impacts with the proposed text amendment. While the proposed changes may result in less overall landscaping close to structures, and may require separation of trees to prevent fire jumping, these code amendments may have a positive effect on the environment by reducing the risk of wildfire.

IX. STAFF RECOMMENDATION

The Community Development Department recommends the Planning and Environmental Commission forward a **recommendation of approval** for the prescribed regulation amendment to the Vail Town Council. This recommendation is based upon the review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented.

Should the Planning and Environmental Commission choose to forward a recommendation of approval to the Vail Town Council for the proposed text amendment, the Community Development Department recommends the Commission pass the following **motion**:

"The Planning and Environmental Commission forwards a recommendation of approval to the Vail Town Council for a Prescribed Regulations Amendment pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Title 12, Zoning Regulations, and Title 14, Development Standards, Vail Town Code, concerning regulations on building design and landscaping to reduce the risk of wildfire, 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 VII of the staff memorandum, 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 outlined in Section 12-1-2, Purpose, Vail Town Code; 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."*

X. ATTACHMENTS

- A. Applicant's Narrative
- B. Proposed Text Amendment, Title 12, Chapter 2
- C. Proposed Text Amendments, Title 12, Chapter 11
- D. Proposed Text Amendments, Title 12, Chapter 21
- E. Proposed Text Amendments, Title 14, Chapter 10