



Memorandum

To: Vail Town Council
From: Environmental Department
Date: April 7, 2020
Subject: Stream Corridor Protection Ordinance- An overview of potential protection measures

I. PURPOSE

The purpose of this memorandum, alongside the accompanying white paper, is to present a high-level approach to a stream corridor protection ordinance. Staff is seeking a Council directive on the following:

Does the Vail Town Council support staff moving forward with the research and development, of a stream corridor protection ordinance including the elements as presented?

II. BACKGROUND

The Gore Creek Strategic Action Plan was adopted by Resolution 9, Series of 2016 on March 15, 2016. The Strategic Plan identifies the “*loss of riparian vegetation and habitat*” as one of the three main causes of the declining health of Gore Creek. Additionally, town-led efforts to reduce the use of pesticides near waterways have resulted in modest but consistent improvements in aquatic macroinvertebrate numbers. Because of the widespread nature of the degradation of riparian habitat along Gore Creek in Vail, the efforts to restore Gore Creek must also be widespread and diverse and will require the engagement of all creekfront land managers.

The desired outcome of a stream corridor protection ordinance is the restoration and/or preservation of streambank habitat to the highest environmental standards by both private and public property owners.

III. GOALS AND OBJECTIVES

The over-arching goal of a stream corridor protection ordinance would be to establish best practices on private property that, when implemented, contribute to removal of Gore Creek from the 303d list of impaired waterways.

Objectives:

1. Create a clear set of requirements for establishment and maintenance of riparian setbacks
2. Limit turfgrass and hardscape and deter excessive chemical use within delineated buffer zone
3. Engage all property owners and managers in the Restore the Gore effort
4. Educate property owners and managers about how to implement best management practices in riparian restoration
5. Raise awareness of the importance of riparian buffers on private property
6. Incentivize creek-friendly landscaping practices by assisting private property owners with project design and implementation

IV. STREAM CORRIDOR PROTECTION ORDINANCE

To be effective and in-line with best management practices, any stream corridor protection ordinance in Vail should include restrictions on removal of vegetation, construction and hardscape to successfully achieve the goals and objectives above. In addition, efforts to deter excessive landscape chemical use should be pursued to the extent possible under current state law. To be appropriate for Vail the ordinance would need to establish exceptions and exemptions for existing structures and hardscapes, chemical use in the control of invasive weeds, and removal of dead and hazardous vegetation.

First, the ordinance should establish a clear and easily measured setback in which specific activities are limited or prohibited. These adopted setbacks could be adapted from the recommendations in the Environmental Protection Agency's (EPA) "Aquatic Buffer Model Ordinance," but will be modified to take into account the nature of existing development in the Town of Vail.

Exemptions could be made, for example, if the property owner obtains a permit by providing clear and convincing evidence to the Design Review Board or Vail Fire Department that one or more of the following criteria is met:

- In cases where existing structures fall within the new setback, the inner buffer zone would extend a percentage of the distance measured from OHM to the structure.
- Vegetation removal would be permitted in cases where trees pose a threat to people, structures, or property or have been identified by Vail Fire Department as potential fuel sources or are recommended for removal as part of the establishment of defensible space around a structure in accordance with Vail Fire-Resistant Landscaping guidelines.

V. IMPLEMENTATION

While town staff already provides high level technical assistance to homeowners, a successful stream corridor protection ordinance should be accompanied by additional outreach, education and support for private property owners and managers. Such support could include native plant giveaways, assistance with design and plant selection, assessments of buffer zones and free consultations from town staff.

VI. NEXT STEPS

Should the Town Council decide to move forward with a stream corridor protection ordinance, staff will return with a draft ordinance in May.

VII. STAFF RECOMMENDATION

Staff recommends the Vail Town Council support development of a stream corridor protection ordinance that includes;

1. A two-tiered setback from the high-water mark that limits removal of vegetation, establishment of hardscapes, and construction.
2. Exemptions for specific cases (existing structure, requirements for fire protection, fuels reduction and hazardous vegetation removal).
3. At a later date, if and when the opportunity becomes available, implement pesticide restrictions within the buffer zone established by this ordinance.

VIII. ATTACHMENTS

- A. White Paper on Stream Corridor Protection Ordinances
- B. Presentation
- C. Maps of possible setback overlay