

**ORDINANCE NO. 2
SERIES 2022**

**AN ORDINANCE AMENDING CHAPTER 11 OF TITLE 5 OF THE VAIL
TOWN CODE TO REDUCE THE RISK OF WILDFIRES IN THE TOWN**

WHEREAS, each year wildfires continue to grow more destructive and impactful to communities across Colorado; and

WHEREAS, the Town wishes to reduce the risk of wildfire in the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF VAIL, COLORADO, THAT:**

Section 1. Chapter 11 Title 5 of the Vail Town Code is hereby repealed in its entirety and reenacted as follows:

CHAPTER 11: REDUCTION OF WILDFIRE RISKS

5-11-1: PURPOSE:

The purpose of this Chapter is to reduce the risk of wildfires in the Town by requiring the removal of wildfire fuels and diseased trees from properties in the Town and requiring the creation of non-combustible zones around structures in the Town.

5-11-2: APPLICABILITY:

This Chapter shall apply to all property in the Town.

5-11-3: DEFINITIONS:

For purpose of this Chapter, the following terms shall have the following meanings:

CHIEF: The Town's Fire Chief or designee.

DISEASED TREE: A tree, alive or dead, which is or has been infested or infected with any insect or disease identified in the most recent version of the "Field Guide To Diseases And Insects Of The Rocky Mountain Region".

HERITAGE TREE: An evergreen tree of at least twelve (12) inches in diameter breast height ("DBH") and at least forty (40) feet in height or an aspen tree of at least eight (8) inches in DBH.

LADDER FUELS: Vegetation, live or dead, that allows a fire to climb up from the landscape or forest floor into the tree canopy, including without limitation tall grasses, shrubs, and tree branches.

PROPERTY: A lot, tract or parcel of real property located within the corporate limits of the Town.

WILDFIRE FUELS: Vegetation such as trees, shrubs, forbs or grasses and other materials such as firewood, construction material or debris surrounding a structure, which represent a threat to life or property during a fire as determined by the Chief.

5-11-4: DISEASED TREES AND WILDFIRE FUELS:

It is unlawful for an owner to maintain on any property in the Town diseased trees or wildfire fuels which represent an imminent threat.

5-11-5: FIRE FREE FIVE ZONE:

A. Every structure in the Town shall be surrounded by an area where there shall be no combustible materials or wildfire fuels, and there shall only be materials that are designed to prevent ignition from wildfire (the "Fire Free Five Zone"). The Fire Free Five Zone shall extend from the foundation wall of the structure or any attachment (such as a deck or stairway), whichever is further, out a distance of five (5) feet.

B. Notwithstanding the foregoing, a heritage tree may be exempted from the Fire Free Five Zone if the Town determines that the heritage tree is not a significant wildfire risk. To obtain such an exemption, the property owner shall contact the Fire Department to request an evaluation based on site-specific conditions. Each heritage tree that remains in the Fire Free Five Zone shall be continuously maintained as follows: the tree shall be limbed vertically to six (6) feet or one-third of the total height of the tree, whichever is greater; the tree shall have no ladder fuels under its dripline; the tree shall have no limb within two (2) feet from any structure; and the tree shall have no limbs within ten (10) feet of a chimney on any structure.

5-11-6: PERMIT FOR REMOVAL:

An owner desiring to remove any diseased trees from any property in the Town shall file an application for a permit with the Community Development Department. There shall be no application fee for the permit. The application shall contain a written narrative describing the type, size, quantity and general location of the diseased trees proposed to be removed. The Chief may perform a site visit prior to the Town taking any action on the permit application. To protect nesting birds, when possible, tree removal shall not occur between May 1 and August 1.

5-11-7: INSPECTION:

A. The Chief may enter a property for the purpose of inspection for compliance with this Chapter, with permission from the owner, when at least one of the following events has occurred:

1. The owner has requested the inspection;
2. A neighboring landowner has reported a diseased tree or wildfire fuels and requested an inspection; or
3. The Chief has made a visual observation from a public right of way or adjacent property and has reason to believe that diseased trees or wildfire fuels exist on the property.

B. If the owner does not grant permission to inspect the property, the Chief may seek an inspection warrant from the Municipal Court.

5-11-8: EMERGENCIES:

In the case of an emergency involving imminent danger to the public health, safety or welfare, the Chief may enter upon any property to conduct an emergency inspection or abatement without permission from the owner or a warrant.

5-11-9: NOTICE OF VIOLATION:

A. If the Chief determines that a property is in violation of this Chapter, the Chief shall provide a written notice to the owner. The notice shall be sent by first-class United States mail to the owner at the owner's last known address, or personally served.

B. The notice shall:

1. Advise the owner of the violation of this Chapter;
2. Describe approved methods for abatement of the violation;
and
3. Require that the abatement be completed within the timeframe stated in the notice, which shall be no less than thirty (30) days of the date of the notice, or that an acceptable plan and schedule for abatement be submitted to the Chief within such time.

C. If the owner fails to dispute the notice, and fails to timely abate the violation, the Town may seek an abatement order pursuant to this Chapter.

D. If the owner disputes the notice, the owner shall notify the Chief within seven (7) days of the date of the notice. If a timely notice of dispute is given, the Chief shall meet with the owner in an effort to resolve the dispute. If the Chief meets with the owner and is unable to resolve the dispute, the Town may seek an abatement order pursuant to this Chapter.

5-11-10: ABATEMENT ORDER:

A. An application for an abatement order shall be accompanied by an affidavit, signed by the Chief, stating that:

1. The Chief has determined that the property is in violation of this Chapter;

2. The Chief has complied with the notice requirements of this Chapter; and

3. Within the required time, the owner has failed to remedy the violation or has failed to submit an acceptable plan and schedule for such abatement; and

4. The Municipal Court will consider the application for an abatement order at the date and time set forth in the notice, which date shall be at least fourteen (14) days after the notice.

B. The Town shall provide notice to the owner of the application, either by first class United States Mail to the owner's last known address, or by personal service. The notice shall include a copy of the Town's application and affidavit.

C. At the stated time, date and place, the Municipal Court shall review the Town's application, as well as any statement or evidence presented by the owner. If the Municipal Court finds that the property is in violation of this Chapter, the Municipal Court may enter an order authorizing the Town to enter upon the property, remove the violation and recover its costs,

5-11-12: COSTS:

If the Town abates a violation of this Chapter, the owner shall be assessed the Town's actual costs, plus a 10% administrative fee.

5-11-13: VIOLATION AND PENALTY:

A. It is unlawful to violate any provision of this Chapter.

B. Any person convicted of violating any provision of this Chapter shall be punished as provided in Section 1-4-1 of this Code; provided that each separate act in violation of this Chapter, and each and every day or portion

thereof during which any act in violation of this Chapter is committed, continued, or permitted, shall be deemed a separate offense. This penalty shall cumulative, and any penalty under Section 1-4-1 shall be in addition to any assessment of costs under this Chapter or other available remedies.

Section 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this ordinance; and the Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and the inhabitants thereof.

Section 4. The amendment of any provision of the Vail Town Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 5. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

Section 6. Effective Date. This ordinance shall take effect on January 1, 2025.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED
PUBLISHED ONCE IN FULL ON FIRST READING this 5th day of April, 2022 and a public
hearing for second reading of this Ordinance set for the ____ day of _____, 2022,
in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED
this ____ day of _____, 2022.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk