

**RULES OF PROCEDURE
FOR THE JULY 5, 2022 APPEAL HEARING BEFORE THE VAIL TOWN COUNCIL
REGARDING THE BOOTH HEIGHTS DEVELOPMENT**

1. Purpose. These Rules of Procedure ("Rules") are adopted pursuant to Vail Town Code § 12-3-3(F) to establish the procedures for a hearing to consider appeals of the decision by the Design Review Board (the "DRB") approving the Booth Heights Development Plan (the "Decision"). These Rules are limited to this hearing and any continuances thereof, and shall not apply to any other hearings before the Town Council. These Rules are intended to establish reasonable procedures to protect applicable due process rights and to ensure that the hearing proceeds in a fair and expeditious manner.
2. Background. The Town received 15 potential appeals of the Decision. Appeals of DRB decisions are governed by Vail Town Code § 12-3-3(C). The Community Development Director reviewed all potential appeals to determine whether each purported appellant had standing. Pursuant to Vail Town Code § 12-3-3(C)(2), the Community Development Director determined that 4 of the appellants had standing to file appeals (each an "Appellant" and collectively the "Appellants"), and set a hearing before the Town Council on July 5, 2022. The Town then notified all Appellants of the date of the hearing, as well as the applicant, Vail Resorts ("Applicant"). The Town also published notice of the hearing as required by Vail Town Code § 12-3-6.
3. Burden of Proof. All 4 appeals challenge the Decision as a whole, alleging that the Decision should be overturned for various reasons. As such, the Town Council will hear all 4 appeals at the same time. It is Appellants' burden of proof, as a whole, to establish that the Decision was made in error.
4. Pre-Hearing Submittals. In compliance with Vail Town Code § 12-3-3(C)(3), the DRB, through the office of the Community Development Director, has forwarded to the Town Council prior to the date of the hearing a summary of all records concerning the Decision. Additionally, Appellants and Applicant were allowed to submit to the office of the Community Development Director written materials prior to the hearing for the Town Council's review.
5. Appearance and Representation. All Appellants must appear in person at the hearing to present evidence unless represented by a duly authorized representative. If any Appellant fails to appear in person at the hearing and is not so represented, that Appellant's appeal shall be deemed dismissed. No telephonic or virtual participation shall be allowed.
6. Testimony. All Appellants giving testimony to the Town Council shall be deemed to have given such testimony under oath. Each Appellant shall state their name and address for the record prior to presenting any testimony. Inflammatory, irrelevant, repetitive and incompetent testimony and hearsay will not be permitted.
7. Orderly Conduct. All persons appearing at the hearing shall act in an orderly and courteous manner.

8. Order of Proceedings.

a. The Mayor shall open the hearing, and Town staff shall present the procedural history, including dates of the DRB hearing and the Decision. The Town Council may ask questions of Town staff during this presentation.

b. Each Appellant shall be allotted a total of 10 minutes to present evidence, witness testimony, statements and arguments in support of the appeals, provided that pooling of time shall be permitted between Appellants who are present or represented at the hearing. No cross examination of witnesses shall be allowed.

c. Applicant shall then present any evidence, witness testimony, statements and arguments in support of the Decision. Applicant's presentation shall be limited to 40 minutes.

d. Following Applicant's presentation, if any, each Appellant shall have up to 3 minutes to respond only to issues raised by Applicant, provided that pooling of time shall be permitted between Appellants who are present or represented at the hearing.

e. Town staff may then respond to or supplement the evidence and testimony presented by Appellants and Applicant.

f. Following the Town staff presentation, the Town Council shall allow limited public comment. Each public comment shall be limited to 3 minutes, provided that pooling of time shall be permitted and repetitive and irrelevant comments may be disallowed. Public comment shall be on a first-come, first-served basis, based on a sign-in sheet at the hearing.

g. The Town Council shall have the right at any time to temporarily recess to review any written evidence provided by any person if such review cannot occur while the hearing proceeds.

9. Continuance. Once the hearing has commenced, the Town Council may continue the hearing to a date certain upon its own motion, for good cause including without limitation the need for additional time for presentation or consideration of evidence or the need for additional information. Re-notification to adjacent property owners and interested parties shall not be required for any continued hearing. At the continued hearing, no additional time shall be allotted for public comment.

10. Decision. At the conclusion of all of the testimony, the Town Council may deliberate. Following deliberation, the Town Council shall make a decision on all of the appeals at once by a voice vote, and a simple majority shall be required to uphold or reverse the DRB decision.