



Figure 10- Urban Conflagration Hazard Map

Urban Conflagration hazard is the hazard of structure to structure ignition. The hazard rating is based on proximity of structures. Structures closer together have a higher hazard. Structures built with type two or better construction had their hazard rating reduced. This hazard is separate from wildfire hazard since structure to structure ignition is dependent on a different set of factors than wildfire hazard.

Letters to Vail

VAIL HOMEOWNERS ASSOCIATION

Are Vail's Trees Again in Danger?

March 28, 2022

In the mid-1990s, a small beetle, the size of a grain of rice, began a devastating march through Colorado's forests killing millions of lodgepole pines. Vail was not spared, as hundreds of thousands of lodgepole pines in Vail and the surrounding wildland were destroyed. While that epidemic has now largely subsided and Vail's store of trees has been stabilized, a new proposal once again threatens to cause the destruction of thousands of Vail trees. But this time it would not be caused by some insect but rather a TOV wildfire mitigation plan.

Trees play a valuable role in regulating the environment. They absorb carbon and sulphur dioxide, ozone and other harmful particulates while producing oxygen. Under a new one-size-fits-all proposed “Fire Free Five” code, thousands of existing trees of all types in the town would be required to be cut down, and thousands more would be required to be limbed up to 6’ in height. That is because the new proposed fire code, a copy of which appears at the end of this *Letter*, would require each building owner to create a 5’ wide non-combustible zone around all buildings in the TOV, including all residences. Within that zone there could be no trees or shrubs, and trees outside the zone which overhang the zone would have to be limbed up to 6’. Much of this is valuable and mature landscaping that often was required by the town to be put in as part of building requirements. Indeed, trees are considered so valuable that at present a landowner needs a permit to remove them, even if dead or diseased. Nevertheless, under the new proposal, not only would trees and shrubs have to be removed, but only hardscape (patios, walkways, driveways etc.) and well irrigated lawns and flower beds would be allowed in the zone.

These would be mandatory requirements with the only exception being heritage trees in the village core (those greater than 12” DBH and 40’ tall). Heritage trees outside the town core in the zone would not be spared and would have to be cut down. Reportedly, 79% of all structures in the TOV would have to remove trees and other landscaping, and, depending on the number of trees involved, the cost could run into thousands of dollars. Needless to say, this will have significant financial implications for homeowners and will change the appearance of the community. Town staff has recommended the adoption of the ordinance.

While the fire department has been publicly saying there would be a 3-year implementation period (until 2025), the actual ordinance has no such grace period. According to its wording, it would go into effect immediately. The fire department has also been saying it will work with property owners to implement the new code but that would be in circumstances where the fire department would hold all the cards as the ordinance gives vast enforcement powers to the department. There would be fines for violations, and the fire department could seek an “abatement order” from the Town municipal court to enter onto a landowner’s property and cut down trees and remove foliage, all at the landowner’s expense plus an additional 10% “administrative fee” which would be in addition to all fines.

At the same time, this proposal would do nothing to reduce the amount of available wildfire fuels either in the form of dead trees or wild grasslands. While existing codes require harden structures, even the most defensible structures are at risk when wildfires get out of control. It is abundant fuel that allows that to happen.

It would seem that a proper wildfire mitigation plan for Vail would be more site specific, multi-faceted and nuanced than a simple one-size-fits-all 5’ fire break around all structures. Vail’s ecosystem is different from those involved in the recent Marshall Fire and the Camp Fire in Paradise, California, which have been pointed to as reasons for this proposal. The Marshall Fire was fueled by grasslands, and the Camp Fire was in a drought stricken forested locale. Both were driven by hurricane force winds. While the TOV is not immune to drought, it is located within the highest rain and snowfall microclimate within the State. Its topographic and geographic location shield it from extended wind conditions that occur in wildfire prone areas on the Colorado Front Range and in California. And it consists of three different microclimate zones: the generally heavily wooded north facing slopes, the more barren drier south facing slopes, and the valley floor with relatively fertile soil and naturally available water. Within the TOV there is great variation in susceptibility to wildfires, ranging from the urbanized village core and fully developed residential areas to the wildland-urban interface.

A one-size-fits-all approach also creates a false equivalency by treating all species of trees with the same level of wildfire threat. Aspen trees are not known to be highly flammable. Aspens which abound throughout the Gore Valley are noted for the ability to retain and process high volumes of water and oxygen. There are few, if any, circumstances where aspens are the source of ignition or conveyors of wildfire. And even evergreens are less

likely to contribute to a wildfire if they are maintained in healthy condition as is the case with many within the TOV.

The “Fire Free Five” proposal was scheduled for presentation to the PEC, but, at the last moment, it was put on hold. That was a welcome development because, while wildfire risk needs to be mitigated, questions abound about this proposal. Among questions that should be addressed are whether there is scientific support for a 5’ zone in urban settings? Will a 5’ fire break make a difference in the wildland-urban interface? Will a 5’ fire break make any difference in a wind driven fire? Should mitigation requirements be based on the degree of risk in varying zones within the town, similar to zoning classifications for different types of buildings? Should all trees be treated the same for fire risk purposes? Before embarking on mandatory irreversible changes, would it not be wise to consult leading experts?

But now this proposal is being brought back, this time by the Town Council. The ordinance mysteriously appeared on the recent Town Council agenda without any PEC review or recommendation. Apparently, the normal PEC process has been jettisoned so the ordinance could be called up for enactment at any future Town Council meeting. It, therefore, behooves all Vail residents to familiarize themselves with the provisions of this new ordinance and make their views known to town officials.

In *Letters to Vail*, VHA provides clear and concise discussions of matters affecting the Vail community in the belief that an informed citizenry will be an engaged citizenry. We intend for these *Letters* to promote more citizen involvement and community discussions of issues facing the Town. If these are issues that concern you, please make your views known to town officials. Public discussion of current issues by concerned citizens creates an environment to further our community initiatives. We heartily encourage your input in shaping the road ahead.

You are also welcome to join-in as a Paid-Subscriber or Member. Contact:

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**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".

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:

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.

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 taking any action on the permit application.

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 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

shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this ____ day of _____, 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