

**ORDINANCE NO. 15
SERIES OF 2012**

**AN ORDINANCE AMENDING TITLE 7, VAIL TOWN CODE BY THE ADDITION OF
CHAPTER 10 REGARDING COMMERCIAL TRANSPORTATION REGULATIONS;
AND SETTING FORTH DETAILS IN REGARD THERETO**

WHEREAS, the Town of Vail, in the County of Eagle and State of Colorado (the "Town"), is a home rule municipal corporation duly organized and existing under laws of the State of Colorado and the Town Charter (the "Charter");

WHEREAS, the members of the Town Council of the Town (the "Council") have been duly elected and qualified; and

WHEREAS, the Council finds that hindering transportation within the Town is of public concern and efficient police regulation of such a crime would preserve the general welfare of the citizens and guests of the Town.

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

Section 1. Title 7 is hereby amended by the addition of Chapter 10, COMMERCIAL TRANSPORTATION REGULATIONS to read as follows:

Chapter 10

COMMERCIAL TRANSPORTATION REGULATIONS

7-10-1: PURPOSE:

The purpose of this Chapter is to protect the safety of pedestrians and motorists in the Town by reducing congestion in skier drop-off locations and monitoring the significant increase in hotel and motel shuttles.

7-10-2: DEFINITIONS:

AUTOMATED VEHICLE IDENTIFICATION TRANSPONDER (AVI): A transponder issued by the Town to each motor vehicle in a Commercial Operator's fleet, which allows the Town to record the timing of and the number of trips made by each motor vehicle through the Town.

BUS OPERATORS: Commercial Operators engaged in the business of providing passenger transportation in motor vehicles having a capacity of twenty-six (26) or more persons, or as otherwise defined by the Colorado Public Utilities Commission, except for Commercial Operators regulated by the federal government, such as Greyhound.

COMMERCIAL OPERATOR: A person or entity operating motor vehicles upon Town roadways in connection with any activity involving passenger transportation for a profit, regardless of whether operating as an employee or independent contractor, or whether operating under a company name, including without limitation Bus Operators, Hotel and Motel Operators, Luxury Limousine Operators and taxis; but excluding universities, non-profit organizations, hospitals, ambulance services, or governmental units (including local, state and federal agencies), construction and maintenance contractors, suppliers and service providers not primarily engaged in passenger transportation, and mail delivery systems such as Federal Express, United Parcel Service and the U.S. Post Office. For purposes of this Chapter, transportation companies with common ownership or common control, or those acting on behalf of or in concert with another company, will be treated as one Commercial Operator.

CRUISING: Operation of a motor vehicle upon Town roadways or facilities by a Commercial Operator for the purposes of soliciting or attempting to solicit passengers in any location other than in the loading or staging areas specifically authorized for such use in these regulations.

DWELL TIME: The period of time during which a motor vehicle remains upon areas specifically authorized for loading or staging.

HOTEL AND MOTEL OPERATORS: Commercial Operators engaged in the business of providing temporary or short-term lodging and associated services to the public and transporting passengers to facilities used for temporary or short-term lodging.

INFREQUENT USER: A Commercial Operator that does not transport passengers to and from the Town more than two (2) days during a Transportation Year.

LOADING AND UNLOADING AREAS: Those areas authorized for passenger loading and unloading as shown on a map on file with the Town Manager and available for inspection during regular business hours.

LUXURY LIMOUSINE OPERATORS: Commercial Operators engaged in the business of providing charter transportation to the public in vehicles with a manufacturer's rated maximum capacity of six (6) to twelve (12) persons including the driver, or as defined by the Colorado Public Utilities Commission.

OVERSIZED VEHICLE: A vehicle that is either at least eighty (80) inches in width, or has a seating capacity for sixteen (16) or more including the driver, but less than twenty-six (26) seats.

REPLACEMENT VEHICLE: A vehicle intended by a Commercial Operator to replace a vehicle that had been registered for that Transportation Year, but was subsequently destroyed or sold.

TRANSPORTATION YEAR: November 1 through October 31 of the following year.

7-10-3: PERMIT REQUIRED:

A. Every Commercial Operator other than an Infrequent User shall register with the Town and obtain a permit for each vehicle in the Commercial Operator's fleet at least thirty (30) days prior to each Transportation Year. The Town shall issue a permit to the vehicles of any Commercial Operator who agrees to continuously satisfy the terms and conditions of this Chapter.

B. Each application for a permit under this Chapter shall be accompanied by a permit fee, which shall be established each year in an amount determined by the Town Manager.

C. Each permit shall be individually numbered.

D. The permit shall be permanently affixed to the vehicle front windshield on the lower passenger's side window for each permit and visible to the public.

E. If a permit is damaged, a new permit will be issued only when the remains of the damaged permit are filed with the Town.

7-10-4: DOCUMENTS REQUIRED:

Commercial Operators requiring authorization by or registration with the Colorado Public Utilities Commission or the federal government shall submit to the Town current copies of such authorizations, registrations and tariffs issued to the Commercial Operator by those agencies.

7-10-5: INSURANCE:

A. Policies: Commercial Operators shall submit certificates of insurance in a form acceptable to the Town with the following coverages: comprehensive general liability insurance policy with limits of not less than \$150,000 for any one person injured in any one accident and \$600,000 for injury to two or more persons in a single occurrence; motor vehicle insurance in such minimum amounts as required by the Colorado Public Utilities Commission; and the statutory required workers' compensation insurance coverages.

B. Additional Insured: The Town shall be named as an additional insured on the general liability and motor vehicle liability policies.

C. Certificates: The Commercial Operator shall furnish certificates to the Town prior to commencing operations evidencing that the insurance is in full force and effect during the term of the operating privilege and that the Town shall be notified by the insurers, in writing, at least ten (10) days prior to any cancellation of the policy.

7-10-6: INDEMNIFICATION:

By registering with the Town, each Commercial Operator agrees to indemnify, defend, and save the Town and its respective agents, officers, and representatives and employees harmless from and against any and all judgments, penalties, liability or loss, including costs and reasonable attorney fees resulting from claims or court actions, whether civil, criminal or in equity, arising directly or indirectly out of acts of the Commercial Operator, its agents, employees or servants, or through any injury or casualty occurring in the Town as a result of said loss.

7-10-7: CONDUCT:

Commercial Operators shall abide by the following rules of conduct:

A. Demeanor: Commercial Operators shall be courteous to the public and to other Commercial Operators and their employees. The Commercial Operator's employees shall be clean, efficient and neat in appearance. Commercial Operators shall not allow employees in public to use improper language or to act in a loud or boisterous or otherwise improper manner. Commercial Operators shall not engage in open, notorious and public disputes, disagreements or conflicts tending to deteriorate the quality of passenger transportation services of Commercial Operators or their competitors or incompatible with the best interests of customer service in the Town.

B. Deception: It shall be a violation of this ordinance for a Commercial Operator to deceive or attempt to deceive the public through false representations concerning its prices or services or those of any other passenger transportation provider.

C. Obedience to Signs: Commercial Operators shall obey all posted regulatory signs in the Town.

D. Unattended Vehicles: It is unlawful for any Commercial Operator to leave a motor vehicle unattended upon Town streets or facilities. A motor vehicles left without a driver or that causes an obstruction of traffic may be immediately towed at the Commercial Operator's expense. In addition, the Town shall have the authority to require a Commercial Operator to move its motor vehicle for efficient traffic movement or pedestrian safety.

E. Passenger Loading, Pick-up and Drop-off: The Town may designate specific pick-up and drop-off locations and times at Town facilities such as the Village Transportation Center and Lionshead Parking Structure. The Town may restrict waiting, parking of Commercial Operator's vehicles, pick-up and drop-off locations on Town streets. These areas will be in a map maintained on file in the office of the Town Manager and available for inspection during regular business hours.

F. Cruising: It is unlawful for Commercial Operators to engage in cruising.

G. Double Parking: Double parking of motor vehicles by Commercial Operators on Town roadways is prohibited.

H. Vehicle Idle Time: Commercial Operators are encouraged to turn off their vehicles during dwell time. If it is not practicable to turn off a vehicle due to extreme cold, Commercial Operators are encouraged to limit any vehicle idling time to fifteen minutes or less.

I. Oversized Vehicles: To ensure efficient traffic movement and protect pedestrian safety, the Town may restrict oversized vehicles from certain areas of the Town, and such restrictions shall be indicated by appropriate signage.

7-10-8: AVI TRANSPONDERS:

A. The Chief of Police may, at any time after the effective date of the ordinance codified in this Chapter, determine that each vehicle in every Commercial Operator's fleet should be equipped with an AVI Transponder. If such a determination is made, the Town shall provide written notice to all permitted Commercial Operators that an AVI Transponder will be required by a date certain, not less than thirty (30) days following the date of the notice.

B. An AVI Transponder may be purchased from the Town for a fee established by the Town Manager.

C. The Commercial Operator is responsible for the care, maintenance, and upkeep of each of its AVI Transponders.

D. Except as otherwise permitted, an AVI Transponder shall remain affixed to the vehicle to which it is assigned. An AVI Transponder may only be transferred to a Replacement Vehicle upon written approval of and reassigned by the Town. An AVI Transponder shall not be transferred between or among vehicles within the fleet of a Commercial Operator and the use by a Commercial Operator of an AVI Transponder issued to a different Commercial Operator is strictly prohibited.

E. The Town may deactivate an AVI Transponder in the event of misuse.

7-10-9: VIOLATION; PENALTY.

A. First Violation: A first violation of this Chapter shall result in the issuance of a Warning Notice to the Commercial Operator. The Warning Notice may be delivered by

hand delivery, via facsimile, or forwarded by regular mail to the Commercial Operator and the registered owner of the transportation company.

B. Second Violation: Upon a second violation during a Transportation Year, the Commercial Operator will receive a Warning Notice in the same manner as described in subsection A hereof.

C. Third Violation: Upon a third violation during a Transportation Year, a Commercial Operator's operating privileges in the Town shall be suspended for a period of seven (7) days. The Town shall give the Commercial Operator five (5) days prior written notice of the effective date of the suspension. If the Commercial Operator contests any of the violations, the Commercial Operator shall, within two (2) days of receipt of the written notice, request a meeting with the Town Manager, and the suspension shall not take effect until the Town Manager or designee has met with the Commercial Operator and given the Commercial Operator the opportunity to be heard on each of the violations. At the conclusion of the meeting, the Town Manager or designee shall determine, in his or her reasonable discretion, whether the violations occurred and whether suspension is appropriate. Failure to comply with the terms of a suspension shall be cause for issuance of an additional violation and revocation of operating privileges for a period of one (1) year.

D. Revocation: Upon a fourth violation during a Transportation Year, the operating privileges of a Commercial Operator shall be revoked for a period of one (1) year. The Town shall give the Commercial Operator five (5) days prior written notice of the effective date of the revocation. If the Commercial Operator contests any of the violations, the Commercial Operator shall, within two (2) days of receipt of the written notice, request a meeting with the Town Manager, and the revocation shall not take effect until the Town Manager or designee has met with the Commercial Operator and given the Commercial Operator the opportunity to be heard on each of the violations. At the conclusion of the meeting, the Town Manger or designee shall determine, in his or her reasonable discretion, whether the violations occurred and whether revocation is appropriate. Commercial Operators whose operating privileges have been revoked shall be denied access to Town roadways.

E. Emergency Suspension: Notwithstanding any other provision herein, the Town Manager or designee may summarily suspend, without prior notice, the operating privileges of a Commercial Operator, if the Town Manager or designee has reasonable grounds to believe that the public health, safety or welfare requires such emergency suspension.

F. Additional Penalties. Violations of this Chapter shall also be subject to the penalties contained in Chapter 4 of Title 1 of this Code. The imposition of any one penalty contained in this Section shall not preclude the imposition of any other penalty allowed by law.

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 Town 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 amendment of any provision of the 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 4. 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 5. The Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Vail and the inhabitants thereof.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 16th day of October, 2012, and a public hearing for second reading of this Ordinance set for the 6th day of November, 2012, at 6:00 P.M. in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Andrew P. Daly, Town Mayor

ATTEST:

Lorelei Donaldson, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED this 6th day of November, 2012.

Andrew P. Daly, Town Mayor

ATTEST:

Lorelei Donaldson, Town Clerk