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**PLANNING & ZONING  
COMMISSION:**

Thomas P. Wittman, Chair  
Henry Caldwell  
Richard Duffy  
Neal King  
Susan Nichols  
J. Christopher Staggs  
Jim Woodard

**VILLAGE ADMINISTRATOR:**  
John Avila

**DIRECTOR OF PLANNING &  
COMMUNITY DEVELOPMENT:**  
Patrick Nicholson

**VILLAGE CLERK:**  
Ann Marie Wooldridge

**PLANNING & ZONING COMMISSION  
SPECIAL MEETING AGENDA**

MONDAY, NOVEMBER 18, 2019 1:00 P.M.  
EDELWEISS LODGE, CLUB ROOM  
106 SUTTON PLACE  
TAOS SKI VALLEY, NEW MEXICO

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**AGENDA**

- I. **CALL TO ORDER & ROLL CALL**
- II. **APPROVAL OF THE AGENDA**
- III. **APPROVAL OF THE MINUTES OF THE November 4, 2019 REGULAR P&Z COMMISSION MEETING**
- IV. **NEW BUSINESS**
  - A. **DISCUSSION:** Consideration of Recommendation to Council to Approve the Village of Taos Ski Valley Wildfire Prevention and Protection Ordinance.
  - B. **DISCUSSION:** Consideration of Recommendation to Council to Approve Village of Taos Ski Valley Building and Construction Code Ordinance 2020-10.
- V. **MISCELLANEOUS**
- VI. **ANNOUNCEMENT OF THE DATE, TIME, AND PLACE OF THE NEXT MEETING**
- VIII. **ADJOURNMENT**

**VILLAGE OF TAOS SKI VALLEY**  
**Village Planning Commission Special Meeting/November 18, 2019**  
**Agenda Item**

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**AGENDA ITEM TITLE:** Village of Taos Ski Valley Wildfire Prevention and Protection Ordinance.

**DATE:** November 18, 2019

**PRESENTED BY:** Firewise Committee/Councilor Roger Pattison

**STATUS OF AGENDA ITEM:** Old business

**CAN THIS ITEM BE RESCHEDULED:** Not Recommended

**BACKGROUND INFORMATION:** The Firewise Committee has drafted an Ordinance to encourage mitigation of properties within the Village in order to lessen the chances of a catastrophic wildfire.

Through the use of Zones, the Ordinance creates guidelines for the clearing and thinning of properties through the creation of a Fire Mitigation Plan for each property in the Village, where needed. The Village hopes to work collaboratively with property owners and understands that remediation of individual properties will occur over a period of time, with the goal that flammable materials and vegetation will be reduced or eliminated.

The Ordinance also anticipates that the Village will hire a “Director of Forestry” to help property owners develop their Fire Mitigation Plans. This person will be an expert in forestry and wildfire prevention.

**Recommendation:** The Firewise Committee recommends that the Ordinance be approved with recommendations to the Village Council for passage upon two readings, one in December and one in January (public hearing).

ORDINANCE NO. 2019-\_\_\_\_\_

**VILLAGE OF TAOS SKI VALLEY WILDFIRE PREVENTION  
AND PROTECTION ORDINANCE**

**AN ORDINANCE OF THE VILLAGE OF TAOS SKI VALLEY ADOPTING  
REGULATIONS TO REDUCE WILDFIRE HAZARDS BY REQUIRING THE  
REMOVAL OF HAZARDOUS MATERIALS, DEBRIS, AND FLAMMABLE  
VEGETATION FROM PRIVATE PROPERTY**

**WHEREAS**, the Village of Taos Ski Valley (“Village”) is in a high alpine forest which may be subject to hazardous wildfires;

**WHEREAS**, the Village of Taos Ski Valley declares uncontained wildfires to be a threat to the health, safety, and welfare of Village residents and their property;

**WHEREAS**, the Village of Taos Ski Valley believes it essential to adopt regulations to reduce wildfire hazards by requiring the removal of flammable materials, debris and vegetation from public and private property within the Village, while striving to balance the needs for privacy, forest health, and overall aesthetic considerations;

**WHEREAS**, dangerous wildfires are abated through proper management of the forest and through limited clearing and maintenance of private and public properties throughout the Village;

**WHEREAS**, in order to mitigate the possibility of wildfires, as well as their severity, the Village declares that enactment of these regulations is necessary to promote fire prevention through the oversight and management of flammable vegetation, debris, and hazardous materials that constitute a fire hazard;

**WHEREAS**, the Village Council further declares that regulation of fire hazards on public and private property within the Village is essential to preserve quality of life within the Village and to protect persons and structures from irreparable harm.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF TAOS SKI VALLEY AS FOLLOWS:**

**SECTION I. DUTY TO ABATE AND CONTROL WILDFIRE FUELS**

It shall be the duty of every owner and person in control of real property, or interest therein, to control and abate therefrom all flammable vegetation, materials, and debris that constitute a fire hazard and which may endanger or damage neighboring property, or otherwise threaten the health, safety, welfare of the citizens of the Village of Taos Ski Valley due to the danger of wildfire.

**SECTION II. STANDARDS FOR ABATEMENT AND CONTROL**

This Ordinance establishes standards for abatement and control of flammable vegetation, hazardous materials, and other debris which increase the risk of wildfire on public and private property within the Village of Taos Ski Valley.

**SECTION III. COLLABORATIVE FIRE MITIGATION PLANS**

1. The Village intends to work collaboratively with individual property owners to create a "Fire Mitigation Plan" for any or all properties within the Village, as may be found to be appropriate. These Plans will apply standards for abatement and control of flammable vegetation, materials and other debris.
2. Each Plan will be implemented in phases in order to facilitate the long-term mitigation of wildfire hazards and to allow the property owner to budget for mitigation over time. The Village recognizes that large scale mitigation of flammable vegetation and standing trees may take a period of months or years to fully implement. The Village will work cooperatively with individual property owners to allow sufficient time for such mitigation.
3. The Village intends that all Fire Mitigation Plans, whether on residential or commercial property, will be developed in partnership with the property owner to meet the objectives set forth in this Ordinance. The signed Plan will be a regulating agreement between the Village and the private property owner.

**SECTION IV. ENFORCEMENT OF ABATEMENT STANDARDS ON PRIVATE PROPERTY**

1. This Ordinance establishes abatement and control priorities for flammable materials, debris and vegetation for designated property "Fire Mitigation Zones," ("Zones") based upon the location and size of properties, their proximity to structures, and the relative wildfire hazard to the community.

2. The Village will retain a forestry and wildfire mitigation expert to work with private property owners within the Village. This person is referenced throughout this Ordinance as the "Director of Forestry." The Director of Forestry will be selected and appointed by the Village to aid property owners in assessing the best practices for mitigation of wildfire hazards and to develop long-term Fire Mitigation Plans for individual properties.

## **SECTION V. FUEL MANAGEMENT STANDARDS**

1. The Village's "Fuel Management Standards" are established guidelines for each of the designated "Fire Protection Zones" set forth in Section VI below. These Zones address mitigation based upon the size of a property and the location of structures in relation to potentially flammable vegetation and other materials.

2. Fuel Management Standards are designed to reduce the potential for a catastrophic wildfire within the Village, while preserving its forested appearance and natural landscape.

3. The Director of Forestry and the landowner will develop a mutually agreed Fire Mitigation Plan in compliance with the guidelines established for each designated Zone.

4. Only Fire Mitigation Plans approved by the Village's Director of Forestry will be authorized under this Ordinance, including Plans developed solely by property owners in conjunction with a private contractor.

5. The Fire Mitigation Plan will outline specific steps for mitigation of wildfire hazards and will generally involve phased clearing and remediation, with the understanding that initial thinning could take several years.

6. The property owner, or person in control of property, will be responsible for compliance with the Fire Mitigation Plan.

7. Once a property has been mitigated in compliance with a Fire Mitigation Plan, the property owner, or person in control of the property, is responsible for

maintenance thinning. Maintenance activities such as ladder fuel management shall be conducted on a yearly basis. Ladder fuels are those materials or vegetation that spread wildfire from low-growing vegetation to taller trees. Examples of ladder fuels include low-lying tree branches, shrubs, and smaller trees under the canopy of a large tree.

8. Drought and insect mortality can cause a property to quickly deviate from Fuel Management Standards and become noncompliant.

## **SECTION VI. DESIGNATED ZONES**

1. All properties located within the boundaries of the Village of Taos Ski Valley shall meet the following requirements for each of the following designated "Fire Protection Zones" 1 through 4. Each designated Zone could be located within a given lot, although the size and configuration of the lot may vary, therefore requiring specific abatement and mitigation measures.

### **A. Zone 1 /Structure Protection (zero to ten feet from a structure or deck)**

The requirements for Zone 1 are as follows:

- a. All flammable ground materials and activity slash should be removed.
- b. All ladder fuels should be removed, including shrubs beneath the crown of conifers.
- c. Separation between crowns of trees is encouraged.
- d. Where there is a maximum of five similar sized trees with overlapping crowns, there should be separation between these trees.
- e. All species of trees and underbrush should be pruned at least one to ten feet above ground and, if tree height permits, ten feet above structure eaves.
- f. Ornamental spruce and planted tree-form conifers that cannot be trimmed to structure eaves should be removed or modified to reduce ignition risk.
- g. No ornamental wood chips should be allowed, except in planting beds or designated pathways, and where allowed, should be limited to a maximum depth of two inches.

- h. No large piles of firewood should be stored immediately adjacent to structures from May through October, unless the ground is covered by at least six inches of snow.
- i. No flammable construction material should be allowed.
- j. Standing dead trees are discouraged.
- k. Grass and common weeds should be trimmed low to ground or eliminated.
- l. Planted vegetation should be fire resistant and low growing.
- m. There should be no low growing flammable vegetation such as juniper (including ornamental juniper) immediately adjacent to structures.
- n. Roofs and gutters should be kept free of pine needles and other debris.
- o. Conifers are discouraged when they are less than eave height and within twenty feet of vents, windows, or doors.

**B. Zone 2/ Defensible Space (from ten feet to two hundred feet from structure or deck as dictated by the slope of the property in relation to the location of structures)**

The intent of Zone 2 is to reduce the threat to a structure from an advancing wildfire. The requirements for Zone 2 are as follows:

- a. Remove all non-decomposing flammable ground materials and slash within thirty feet of a structure, unless that distance overlaps with another property or right-of-way.
- b. Remove all ladder fuels including brush beneath crowns.
- c. Minimum crowns separation of trees or "clumps" (maximum five similar sized trees per clump) is encouraged.
- d. Separation of brush species should be maintained.
- e. All species of vegetation should be pruned a minimum of ten feet from ground within thirty feet of a structure or one third of tree height, whichever is less. Ornamental conifers may be left untrimmed, provided that spacing and adjacent low ground fuels are maintained in order to minimize ignition potential.
- f. A minimum of ten feet is recommended between planting beds.

g. No wood chips should be allowed, except in planting beds within thirty feet of a structure, or designated pathways, at a maximum depth of two inches.

h. No firewood should be stacked within twenty feet of structures from May through October, unless stored under at least six inches of winter snow. Firewood should be stacked with no more than two cords per stack, and stacks should be separated by at least twenty feet of clear spacing.

i. Conifers are discouraged, less than eave height and within twenty feet of vents, windows, or doors.

j. Standing dead trees are discouraged within sixty feet of structures.

**C. Zone 3/ Forest Woodlands (from the end of Zone 2 to the edge of the property boundary).**

Where the property is within the defensible space of another property, Zone 2 standards shall apply. This Zone shall maintain an open forested appearance with well-spaced trees.

Zone 3 should contain a variety of tree species of various ages. Different species groups will provide for multiple age structure and size structure. The requirements for Zone 3 are as follows:

a. Manage all ladder fuels to mitigate fire hazards.

b. Separation and spacing of vegetation and trees is encouraged.

c. Removal of bole wood over six inches in diameter is encouraged.. “Bole wood” is defined as fallen or cut wood generally in excess of six inches in diameter. It should not be stacked, clustered, or placed against live trees.

d. Trim all species to six feet or one-third the height of the tree, whichever is less, measuring from the uphill side of the tree. Ensure that shorter tree groups are not upwind of taller tree groups.

e. Mastication and chipping of slash are allowed for slash disposal, however, all residue must still be removed. Bole wood over six inches in diameter should be removed if possible, or cut and laid perpendicular to the slope. “Slash” is defined as combustible materials such as leaves, pine needles, downed trees, standing small trees, and thick vegetation that is dry and prone to initiate a wildfire

f. All slash should be removed, masticated, or chipped. On steep slopes or where access is limited, alternative fuels management slash treatments may be approved by the Director of Forestry, such as lop and scatter with material anchored and lying perpendicular to the slope, or on-site burning with an authorized burn permit.

g. Up to three, twelve inch in diameter, or larger non-hazardous, standing dead trees may be retained per acre for wildlife habitat.

h. Recent insect infested trees, or any recently dead or diseased tree, must be harvested and removed. Diseased trees can be identified by the Director of Forestry, but include dying trees that are infested with pine beetle or other insects. Appropriate measures should be used in the removal of diseased trees to ensure that infestation does not spread.

i. All non-decomposing dead ground debris greater than five inches in diameter should be removed, except that up to five downed logs per acre, greater than twelve inches in diameter, may be retained for wildlife habitat.

**D. Zone 4/Large Tracts (more than five acres, with or without structures)**

Zone 4 should have an open, forested appearance. These properties will be treated with the intent to keep a wildfire on the ground to minimize a catastrophic wildfire. Some untreated areas may remain to meet agreed upon objectives provided that there are sufficiently treated areas to ensure that fire will not spread.

The requirements for Zone 4 are as follows:

a. Treated areas of the properties should have no ladder fuels. The cutting of some small diameter vegetation is encouraged.

b. Older Spruce and Firs should be mitigated or removed due to their often rotten cores.

c. A good mix of tree type and size across the property is desirable.

d. Separation of trees is encouraged. Modification of this separation may be approved by the Director of Forestry to meet specific objectives.

e. Perimeter thinning should be of sufficient width to prevent a fire from advancing to an adjacent property.

- f. Every effort should be made to remove and utilize bole wood over five inches in diameter. Bole wood not removed should be felled along the contour or otherwise treated per recommendation of the Director of Forestry.
- g. Removal of any live trees greater than twelve inch DBH (Diameter at Breast Height) or for more than four trees less than twelve inch DBH, and greater than four inches DBH, will require a Tree Cutting permit from the Village Planning Director.
- h. Where possible, slash should be treated with full removal, shallow mastication, or chipping. Lop and scatter may be used as a less desirable alternative.
- i. If lop and scatter is allowed, slash should be lopped and scattered to less than two feet in depth to accelerate decomposition. Lopped and scattered slash should not be placed under the drip line of residual trees. Lopped wood should not be left in piles or leaned against residual trees.
- j. No standing dead trees are allowed within one hundred and fifty feet of the property perimeter due to risks to adjacent properties.
- k. Trees should be pruned where appropriate to meet objectives, but may be left unpruned if separation is adequate to prevent fire movement from tree to tree.

**E. Wildland Urban Interface Zone (WUI)**

- a. All properties within the limits of the Village of Taos Ski Valley are designated as within the Wildland Urban Interface Zone.
- b. The wildland-urban interface (WUI) is the area where houses meet or intermingle with undeveloped wildland vegetation. The WUI is thus a focal area for human- environment conflicts, such as the destruction of homes by wildfires.
- c. The Village, in collaboration with property owners, will strive to eventually map the Wildland Urban Interface Zone to educate the public about hazards and to aid in the prevention of future catastrophic wildfires.
- d. This Ordinance should be applied in conjunction with Village Ordinance No. 2007-44, adopting the WUI. Where this Ordinance conflicts with Ordinance No. 2007-44, this Ordinance shall prevail.

**SECTION VII. FEES IMPOSED**

The Village may enact fees through the passage of an Ordinance to address collection of slash and other waste byproducts created in the wildfire mitigation process, or to otherwise aid in the implementation and enforcement of this Ordinance.

#### **SECTION VIII. RESPONSIBILITY FOR ADMINISTRATION**

This Ordinance shall be administered by the Village of Taos Ski Valley Administrator, or his authorized designee, with assistance from the Director of Forestry, Chief of Police, Fire Chief, Planning Director, and Building Official.

#### **SECTION IX. ENFORCEMENT/PENALTIES**

Any person found to have violated this Ordinance may on conviction be subject to a fine not exceeding three hundred dollars (\$300.00). Any violation continued for a period of thirty (30) days shall be prosecuted and treated as a separate offense.

Nothing in this Section shall be construed to limit the Village's authority to initiate actions to prevent, enjoin, abate, and/or remove a violation of this Ordinance or to otherwise enforce this Ordinance.

#### **SECTION X. VIOLATIONS DEEMED A PUBLIC NUISANCE**

Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance determined to constitute a threat to public health, safety, and welfare, may be declared and deemed a nuisance, and may be summarily abated or restored by the Village at the violator's expense, including by civil action to abate, enjoin, seek restitution, or otherwise compel the cessation of such nuisance.

#### **SECTION XI. VILLAGE CONTROLLED PROPERTIES**

All properties controlled, managed or owned by the Village of Taos Ski Valley will comply with this Ordinance.

#### **SECTION XII. NON-WAIVER OF IMMUNITY**

Nothing contained in this Ordinance shall be construed as waiving the immunity of the Village, its officers, agents, servants and employees, as may be provided in the New Mexico Tort Claims Act, and neither the Village, nor its officers,

agents, servants and employees shall be liable to any person for enforcement of the provisions of this Ordinance.

**SECTION XIII. SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

**SECTION XIV. PUBLICATION AND EFFECTIVE DATE**

This Ordinance shall be in full force and effect after its adoption, approval and publication as provided by law.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_\_ day of \_\_\_\_\_, 2019.**

**VILLAGE OF TAOS SKI VALLEY, NEW MEXICO**

\_\_\_\_\_  
**Christof Brownell, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Ann Wooldridge, Village Clerk**

# Building Official Planning and Zoning Report 11-18-19

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Our current code adoption was originally performed in 1997 at Village establishment. That adoption was of the 1997 Uniform Building Code. Amendment to this original Village Code was made in 2007 specifically adopting chapters of the then no longer published UBC. Evidently intent at that time was to have robust grading and excavation guidelines for our difficult terrain. The other appendix chapter of that same code was adopted to provide guidelines for our fee structure. This code merged with the BOCA National Building Code and the Standard Building Code in 2000. That year was the first publication of the International Code Council's International Building Code. This code is today's national standard and is also used in a few other countries. It is necessary to adopt a published code recognized by the State of New Mexico. The language of our Code 07-10 adopts the New Mexico Building Code (CID-GCB-NMBC-91-1) Village Counsel Susan Baker informed me that in 2009 the State noticed municipalities of requirements to properly adopt Building Codes. My primitive internet legal research seems to show that was the year in which New Mexico overhauled their codes as part of the New Mexico Administrative Code, repealing the aforementioned code.

The background you just heard was necessary to set the stage for the balance of my presentation to you today. You have proposed Village code before you, it represents hours of work by myself and vetting by colleagues and Village Attorney Susan Baker. It is intended to align us with New Mexico Statutes and Codes primarily. The second, continuing process, for coming Meetings is to tailor these New Mexico and International Codes for application in our Village. The "City Different" really has nothing on us. My research indicates that we are among the three highest municipalities in the United States. Which means our protection from the elements is essentially different, from the clothes we wear to the buildings we occupy.

Please direct your attention to the Village Code before you.

**Section I. Introduction.** Establishes the legal basis for and adopts our Taos Ski Valley Building and Construction Codes. General adoption of National and State codes upon which our Village Code is based are referenced and adopted here also.

Section II. Adoption

A. New Mexico Title 14 is the Housing and Construction Code within which various codes are amended and adopted through the State public process.

Articles A through K are the specific codes as adopted by the State and either adopted or not by the Village in line with State adoption.

Section III. Provides the process for tailoring adopted codes as the Village desires.

Section IV. Empowers the position of Building Official for the Village code administration.

Section V. Establishes the Village right to establish an appeals process in line with historic Council decisions rather than subscribing specifically as adopted by the State.

Section VI. Self Explanatory?

## Building Official Planning and Zoning Report 11-18-19

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Section VII. Provision to determine fees appropriate to the Village, these will be brought before the Village governing body as recommendations for ratification.

VIII. There are various outdated Village regulations that are time consuming to revise individually. Where they are valuable to the Village going forward they shall be brought to this body for renewal. There are also existing provisions mixed with the zoning regulations as past village staff filled dual capacities. These, too, will be revised and brought for ratification.

Section IX. Self-explanatory again, but important, as it provides a measure of protection for Village employees in prosecuting their duties.

Section X. Self-explanatory.

Section XI. Again self-explanatory.

I recommend to this Planning Commission that this document be forwarded to the Village Council for ratification. I would like to assure the public and members of this commission of my availability for discussion of these measures.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE VILLAGE OF TAOS SKI VALLEY  
ADOPTING BUILDING AND CONSTRUCTION CODES**

**WHEREAS**, the adoption of building and construction codes is essential to ensure that structures located within the Village of Taos Ski Valley ("Village") are safe, sanitary, and fit for occupation and use;

**WHEREAS**, such codes are necessary for regulating and governing the construction and maintenance of all property, buildings, and structures in the best interest of the public health, safety, and welfare;

**WHEREAS**, these codes provide the standards for construction, utilities, and other physical conditions essential to the use and occupancy of Village buildings, as well as the demolition of such structures;

**WHEREAS**, these codes also provide for the issuance of permits, the collection of fees therefor, and the imposition of penalties for violations;

**WHEREAS**, the Village hereby adopts the Village of Taos Ski Valley's building and construction codes for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location, and maintenance of buildings and structures;

**WHEREAS**, these Village building and construction codes, though named by reference herein, are adopted and incorporated as if fully set forth herein, and in compliance with the laws of the State of New Mexico;

**WHEREAS**, the adoption of the Village building and construction codes supersedes and repeals any building and construction codes previously adopted by the Village. Where the Village's building and construction codes are amended in part by the Village, any such amendments shall supersede inconsistent provisions set forth in the New Mexico model and uniform codes;

**WHEREAS**, these codes are controlling in the construction of all commercial, industrial, and residential buildings and other structures located within the corporate limits of the Village of Taos Ski Valley.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF TAOS SKI VALLEY AS FOLLOWS:**

### **SECTION I. INTRODUCTION**

- A. For the purpose of prescribing standards for regulating construction, maintenance, and demolition of buildings and structures, including all building service equipment, and installations within the Village, the following Village of Taos Ski Valley building and construction codes are hereby adopted.
- B. The Village building and construction codes, as adopted herein, may be amended or repealed in the same manner as ordinances are amended or repealed.
- C. A copy of the Village's building and construction codes are on file in the Office of the Village Building Official, and are available for inspection by the public during regular business hours. A copy of these codes are available to any individual upon request, with and the payment of a reasonable charge, as set by the Village Administrator.
- D. These codes are adopted by reference to the International Code Council and NMSA, sec. 60-13-1, *et. seq.*, titled "Construction Industries Licensing Act."

### **SECTION II. ADOPTION OF CODES.**

The following building and construction codes are adopted and amended as set forth herein. These codes are adopted by reference to the general uniform codes and New Mexico model codes, and are incorporated as if fully set out herein, unless otherwise amended by the Village. From the date on which this Ordinance takes effect, these codes shall be controlling within the municipal boundaries of the Village.

The following Codes are adopted by reference:

- A. The New Mexico Building Code as adopted by the New Mexico Construction Industries Division, as amended;

B. The 2015 New Mexico Commercial Building Code, including Appendix Chapters E and I, but not including Appendix Chapters A, B, C, D, F, G, H, J, and K, as amended;

C. The 2015 New Mexico Existing Building Code as adopted by the New Mexico Construction Industries Division, as amended;

D. The 2009 International Energy Code as adopted by the New Mexico Construction Industries Division, as amended;

E. The 2015 New Mexico Mechanical Code as adopted by the New Mexico Construction Industries Division, including Appendices A, B, C, and D, as amended;

F. The 2015 New Mexico Plumbing Code as adopted by the New Mexico Construction Industries Division, including Appendix Chapters A, B, D, E, F, I, as amended;

G. The 2015 New Mexico Swimming Pool, Spa and Hot Tub Code as adopted by the New Mexico Construction Industries Division, as amended;

H. The 2012 New Mexico Solar Energy Code as adopted by the New Mexico Construction Industries Division, as amended;

I. The 2009 New Mexico Energy Conservation Code, as amended;

J. The 2017 New Mexico Electrical Code as adopted by the New Mexico Construction Industries Division, as amended;

K. The 2012 New Mexico Electrical Safety Code as adopted by the New Mexico Construction Industries Division, as amended;

L. Errata sheets to the adopted portions of the Codes promulgated by the International Code Council, International Association of Plumbing and Mechanical Officials and National Electrical Code, as amended;

### **SECTION III. AMENDMENT TO BUILDING CODES**

The Village building and construction codes adopted in Section II above are hereby amended as set forth in Appendix A and incorporated herein.

### **SECTION IV. JURISDICTION TO ENFORCE**

The jurisdiction to administer and enforce the Village building and construction codes shall be vested in the Village Building Official.

#### **SECTION V. APPEALS**

The Village Planning Commission is vested with the right to hear appeals of the Village Building Official's decisions in the administration and enforcement of the Village building and construction codes.

An appeal of the Village Building Official's decision shall be filed in writing within 15 days of the Building Official's final decision. Any such appeal shall be heard at the next regularly scheduled Planning Commission meeting and shall be noticed as a public hearing.

#### **SECTION VI. BUILDING PERMITS**

No building permit shall be issued for the construction, erection, or demolition of any building or structure within the Village's jurisdiction unless the construction, erection, or demolition complies with the terms and provisions of this Ordinance.

#### **SECTION VII. SCHEDULE OF FEES, CHARGES AND EXPENSES**

The Village Council shall establish, by resolution, a schedule of fees for permits and other matters pertaining to this Ordinance.

No permit or approval required under this Ordinance shall be issued or granted unless and until such fees have been paid in full. The schedule of fees adopted by the Village Council replaces any such fees adopted by the New Mexico Construction Industries Division or the State of New Mexico.

The schedule of fees shall be printed and available from the Village Building Official.

#### **SECTION VIII. REPEAL AND CONFLICT OF CODES**

The adoption of the Village building and construction codes supersedes and repeals any building and construction codes previously adopted by the Village.

Where the Village's building and construction codes are amended as set forth in Appendix A, attached hereto, any such amendments will supersede inconsistent provisions set forth in the New Mexico model and uniform codes.

**SECTION IX. NON-WAIVER OF IMMUNITY**

Nothing contained in this Ordinance shall be construed as waiving the immunity of the Village, its officers, agents, servants and employees, as may be provided for in the New Mexico Tort Claims Act. Neither the Village, nor its officers, agents, servants, and employees will be liable to any person for enforcement of the provisions of this Ordinance.

**SECTION X. SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

**SECTION XI. PUBLICATION AND EFFECTIVE DATE**

This Ordinance shall be in full force and effect after its adoption, approval, and publication as provided by law.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_\_ day of \_\_\_\_\_, 2019.**

**VILLAGE OF TAOS SKI VALLEY, NEW MEXICO**

\_\_\_\_\_  
**Christof Brownell, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Ann Wooldridge, Village Clerk**

# Building Official Planning and Zoning Report 11-18-19

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## APPENDIX A

The New Mexico Building Code, Chapter 5, part 1 "Construction Industries General Provisions"

### 1. 14.5.10.1 Certified Building Official.

This amendment aligns the qualifications for Certified Building official to state code rather than stricter IBC code. ICC requires 10 years of high level experience, New Mexico requires 5 of the last 10 years as minimum requirement for the position. There are few qualified candidates now and the trend is for less in the future. Therefore I recommend the less rigorous requirement.

### 2. 14.5.1.13 Appeals.

Amendments here establish appeals process for the contractor or property owner to appeal decisions of the Village Building Official.

Existing Village appeals process for Building Department leans on the Planning Commission as an appeals body. ICC code requires a prescribed portion of building and design professionals in order to have appeals heard by persons versed in subjects likely to contribute to sound decisions. The Village Planning commission or Village Council does not have such requirements in its candidate selection process. The state has a board made up complying with the ICC guidelines. My recommendation is that building appeals unresolved by the Planning Commission go to the State Technical Advisory Committee rather than Village Council as currently prescribed, prior to resolution in the Taos County District Court.

### 3. 14.5.2.8 Permits.

This amendment adds language extending permitting authority from State to Village.

### 4. 14.5.2.11 Issuance

Here the Village adopts the schedule of valuation that was the accustomed practice of my predecessors in determining project valuation for assessment of building permit fees. It adopts a more modern schedule from current ICC codes and establishes a mechanism whereby adjustments can be made to more accurately reflect construction valuation in our Village. This valuation method reflects national average construction costs and the 10% multiplier is very conservative. Construction costs here can double the averages contained in the schedule. I recommend formal adoption of this provision.

### 6., 7., 8. 17-30

These provisions remove Building Code conflicts with the Village Zoning Ordinance which remain from previous Village Officials which were functioning as both Building Official and Zoning Official. I recommend establishing these divisions of responsibility where the need has come to light.

Jalmar Bowden, Building Official, Village of Taos Ski Valley Nov. 15, 2019

## APPENDIX A

### AMENDMENTS TO CODES

A. The New Mexico Building Code entitled "Construction Industries General Provisions," as adopted by the Construction Industries Division of the State of New Mexico, is hereby adopted in full, and then amended as follows:

#### Chapter 5

1. Part 1 General Provisions; 14.5.1.10, CERTIFIED BUILDING OFFICIAL FOR AN AHJ, shall be amended to add the following introductory provision:

The jurisdiction to administer and enforce the Village Building and Construction Codes adopted herein for construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures, and building service equipment shall be vested in the Village Building Official.

2. Part 1 General Provisions; 14.5.1.13 B. Appeals, shall be amended to add the following introductory provision:

a. The Village Planning Commission is vested with the right to hear appeals of the Village Building Official's decisions in the administration and enforcement of the Village building and construction codes adopted herein.

b. An appeal of the Village Building Official's decision shall be filed within fifteen (15) days of the Building Official's final decision, and shall be submitted in writing. Any such appeal shall be heard at the next regularly scheduled Planning Commission meeting and shall be noticed as a public hearing.

c. Appeals of the Building Official's decision shall be regulated by provisions of the Village Zoning Ordinance 17-30 section 29, except that, where reference is made to Planning Officer, it shall mean Building Official. Any reference to the Village Council shall mean Construction Industries Division, Technical Advisory Committee.

d. Other amendment of terms to Village Zoning Ordinance 17-30, Section 29 for the purpose of appealing the Village Building Official's decision shall be as follows:

i. The term application shall be amended to follow the decision of the Building Official or Commission and papers involved in the proceedings to the Commission or Technical Advisory Committee.

ii. For public hearings, the term Council shall be replaced by (CID) Technical Advisory Committee.

iii. For a stay of proceedings, the term Planning Officer shall be replaced by Building Official.

iv. For the issuance of a decision, the terms Planning Officer and Council shall be replaced by Building Official and Technical Advisory Committee respectively.

v. For the purposes of an appeal, appeal of a Village Council decision shall be replaced by appeal of Technical Advisory Committee decision. This paragraph shall be amended as follows: Appeals of the decision of the Technical Advisory Committee shall be made in writing to the district court of Taos County within 30 days of the decision. (Section 61-1-17, NMSA 1978).

3. Part 2, Permits, 14.5.2.8, shall be amended to add the following introductory provision:

a. No building permit shall be issued for the construction, erection, or demolition of any building or structure of any kind within the Village's jurisdiction unless the construction, erection, or demolition complies with the terms and provisions of all applicable Village codes and ordinances, including the building and construction Codes set forth herein.

4. Section 14.5.2.11, Issuance, shall be amended to add the following introductory provision:

a. Building and Plan review fees are required before a permit and submissions are reviewed. Building and plan review fees shall be determined as specified in Appendix L adopted by this Ordinance, and project valuation supplied by owner or contractor. No building permit may be issued until all development impact fees are also paid in full.

5. Building Valuation Data published bi-annually by the International Code Council is a national average, not reflecting high costs associated with the Village location.

a. A multiplier of 10% shall be used in the calculation of project valuation.

b. This multiplier shall be subject to amendment by Village Resolution.

c. Valuation of a project by this method shall be used solely when actual project costs are not determined or cannot be provided by the contractor or owner.

d. Permit fees for buildings adopted by the Village replaces Building Permit and Inspection fees adopted by the State of New Mexico, except for permit and inspection fees for Electrical, Mechanical and Plumbing.

6. Village of Taos Ski Valley Ordinance 17-30, Section 8, Article 3, Foundation Permit; Article 4, Building Permit; and Article 5, Certificate of Occupancy, are hereby deleted.

a. Where the term Planning Officer appears it shall be replaced by Building Official.

7. Section 6. Definitions, Article 74, is amended as follows:

8. The terms Building and Foundation are hereby removed.