

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, and will specify an agreed upon time frame.
2. Each Plan may 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 based upon an agreed upon time frame.
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 and binding 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,” Section VI below (“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 upon 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. Consideration should be given to harvesting mature trees, as well as small trees that would otherwise be considered potential ladder fuel due to their density and location.

9. 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. Alternatively, mature trees may be removed so smaller, new trees are no longer ladder fuels.
- c. Separation between crowns of trees is encouraged, as shown in the attached diagrams.
- d. Where there is a maximum of five similar sized trees with overlapping crowns, there should be separation between these trees, as shown in the attached diagram and other similar groups.
- 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 or stacks 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, and represent an extreme hazard, and must be removed.
- 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. Ornamental conifers may be kept trimmed and low growing in this zone.

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. Alternatively, removal of tree crowns themselves is encouraged.

- 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 the surrounding ground area is 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; however, this standard should not discourage the planned growth of new trees.
- j. Standing dead trees are highly 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. Ladder fuel management may include removal of the small lower growth fuels, or the removal of mature crowns.
- 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, but should be lopped to lengths of 4 feet or less, and laid perpendicular to the fall line of the slope, flat on the ground.

d. Trim all taller species to six feet above the ground 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 trees.

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, and downed trees that is dry and prone to initiate a wildfire

f. Slash may be masticated or chipped, and must always be removed. 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, when possible, 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. Removing mature trees is sometimes a preferred alternative when mitigating ladder fuel issues.
- b. Mature Spruce and Firs should be harvested 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. Such permitting shall be integral in the approved Fire Mitigation Plan.
- h. Where possible, slash should be treated with full removal. Mastication or chipping is allowed only with full removal of residue. Lop and scatter may be used as a less desirable alternative.
- i. If lop and scatter is allowed, slash should be lopped and scattered and laid flat against the soil 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