

**VILLAGE OF TAOS SKI VALLEY
ORDINANCE NO. 04-40**

An Ordinance to secure the public health, safety and general welfare of the residents and property owners of Village of Taos Ski Valley, Taos County, New Mexico, by the regulation of certain types and volumes of noise within said Village, to prescribe the penalties for the violation thereof and to repeal all ordinances or parts of ordinances inconsistent with or less restrictive than this Ordinance.

WHEREAS, excessive sound is a serious hazard to the public health, welfare, safety and quality of life; and

WHEREAS, a substantial body of science and technology exists by which excessive sound may be substantially abated; and

WHEREAS, residents and visitors to the Village have a right to, and should be ensured of an environment free from excessive noise;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF TAOS SKI VALLEY:

Section 1. Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Commercial - A use of property for purposes other than residential.

Construction - Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private right-of-way, structures, utilities or similar property.

Emergency Vehicle, Machinery or Alarm - Any machinery, vehicle or alarm used, employed, performed or operated in an effort to protect or restore safe conditions in the community or for the citizenry or work by private or public utilities when restoring utility service.

Emergency Work - Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or work by private or public utilities when restoring utility services.

Person - Any individual, firm, association, partnership, joint venture, corporation, limited liability company or other entity.

Property Line - The imaginary line which represents the legal limits of property, including an apartment, condominium, room or other dwelling unit, owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.

Residential- A dwelling unit which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for a single family or a congregate residence for 10 or less persons.

Village Administrator- The Village Administrator of the Village of Taos Ski Valley.

Section 2. Prohibited Noises

A. General Regulation

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unreasonable, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any other person, resident or property owner within the Village.

B. Specific Prohibitions

The following activities and noises are prohibited if they produce clearly audible sound beyond the property line of the property on which they are conducted. These regulations apply to commercial and residential properties, activities or uses between the hours of 7:00 p.m. and 7:00 a.m.

1. The operation of power tools or equipment.

2. The sounding of any bell, chime, siren, whistle or similar device, except:

- a. To alert persons to the existence of an emergency, danger or attempted crime; or
- b. As provided in Section 3.

3. Construction, repair, remodeling, demolition, drilling or excavation work Monday-Sunday, except as permitted in Section 3.

4. The creation of any loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates or other containers.

Section 3. General Exemptions

The following activities and noises are exempted from the requirements of Section 2:

1. Otherwise lawful regular or permitted activities or operations of governmental units or agencies.

2. Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster or to restore public utilities, or to protect persons or property from an imminent danger.

3. Devices or activity creating sound made to alert persons to the existence of an emergency, danger or attempted crime.

4. Any vehicle or equipment designed and used for the purpose of snow and/or ice removal, or garbage/trash removal, when in use for such purposes.

5. Snowmaking, grooming and avalanche control activities generally associated with the operation of a ski area.

6. Other activities as approved by the Village as specified in Section 4.

7. The use of property by the State, or any political subdivision of the State, or any of their lessees, licensees, or permittees, for the purpose of promoting, producing, or holding cultural, entertainment, athletic, or patriotic events, including, but not limited to, concerts, music festivals, and fireworks displays.

8. The sound made by a snowblower or other hand or power tool of no more than fifteen horsepower between the hours of 7:00 a.m. and 9:00 p.m.

Section 4. Application for a License for Exemption from Ordinance Requirements

1. An application for a license to engage in any activity, noise or use which would otherwise violate Section 2 of this Ordinance must be made in writing and submitted to the Village Clerk. Application shall be made at least thirty (30) days prior to the date of the proposed use or event. The applicant requesting the license must be the taxpayer of record for the property on which the use or event will take place. The application shall contain all of the following information:

- a. Name and mailing address of the person making the application.
- b. A statement of the type of event to take place which will require the license.
- c. The address and legal description of the property the event is to be held on.
- d. The date and hours during which the event will be conducted.
- e. An estimate of the maximum number of attendants expected at the event.

2. Upon receipt of the application by the Village Clerk, copies of the application shall be forwarded to the Taos Ski Valley Marshal's Office serving the subject area, and to such other appropriate agencies as the Village Clerk shall deem necessary. Such officers and officials shall review matters relevant to the application and within ten (10) days of receipt thereof, shall report their findings and recommendations to the Village Administrator.

3. Within 20 days of the filing of the application, the Village Administrator shall issue or deny a license. The Village Administrator may attach reasonable conditions to the issuance of a license. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five (5) days of such action, notice thereof must be mailed to the applicant, and in the case of denial, the reasons therefore shall be stated in the notice. A denial (or condition attached to an approval) may be appealed to the Village Council if the applicant files a written notice of appeal with the Village Clerk within 10 days of the date of the Village Administrator's decision.

Section 5. Administration and Enforcement

A. Complaints - Complaints by a resident or property owner in the Village regarding any violations of this Ordinance shall be filed with the Village Administrator or his/her designee. Complaints may be investigated after one complaint for the same violation on the same date are filed from a resident.

B. Enforcement - The Village Administrator is hereby authorized, empowered and directed to enforce all provisions of this Ordinance and any subsequent amendments hereto (including issuing civil infraction tickets) and he/she is authorized to employ the necessary assistants to aid in the enforcement of this Ordinance.

C. Penalties - Any person who violates any provision of this Ordinance shall be subject to payment of a fine of not less than \$100.00 for the first offense.

1. Repeat Offenses - Repeat offenses under this Ordinance shall be subject to increased fines as provided below. As used herein, "repeat offense" means a second (or any subsequent) violation of this Ordinance committed on a specific parcel or property within any one (1) year period and for which the person admits responsibility or is determined to be responsible. The increased fine for repeat offenses shall be not more than \$500 or 90 days in jail or both such fine and jail.

2. Persons Chargeable with a violation - Persons chargeable with a violation of this Ordinance and subject to being responsible for a municipal civil infraction may include the following:

- a. The owner, agent, lessee, tenant, contractor or any other person using or having control or possession of the land, building or premises where such violation has been committed or shall exist;
- b. Any person who knowingly commits, aids and abets, takes part or assists in any such violation; or
- c. Any person who owns or maintains any land, building, or premise on which such violation shall exist.

Section 6. Severability

If any part of this Ordinance shall be found to be invalid or unconstitutional by any court of competent jurisdiction, such findings shall not affect the remaining portions hereof, which shall remain in full force and effect.

Section 7. Effective Date

This ordinance shall become effective 30 days after publication.

PASSED, ADOPTED AND APPROVED BY THE GOVERNING BODY OF TAOS SKI VALLEY, THIS 4th DAY OF MAY, 2004.

Vote: For _____, Against _____

Mayor

ATTEST:

Village Clerk