

**THE VILLAGE OF TAOS SKI VALLEY**

**ORDINANCE NO. 17-30**

**AN ORDINANCE ADOPTING ZONING REGULATIONS AND A  
ZONING MAP FOR THE VILLAGE OF TAOS SKI VALLEY,  
NEW MEXICO.**

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**THE VILLAGE OF TAOS SKI VALLEY**

**ORDINANCE NO. 16-30**

**AN ORDINANCE ADOPTING ZONING REGULATIONS AND A ZONING MAP FOR THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO.**

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

**SECTION 1. TITLE.**

These regulations shall be known as the "Zoning Ordinance" of the Village of Taos Ski Valley, New Mexico (herein after the Village) and shall be referred to herein as "this Ordinance".

**SECTION 2. PURPOSE.**

This Ordinance is intended to help achieve the goals and objectives of the Village Master Infrastructure Plans and other Village Comprehensive Plans and is viewed as a vital tool for accomplishing the goals of these plans. Thus, the regulations and restrictions of this Ordinance are designed to avoid congestion in the streets and public ways; to secure safety from fire, flood, Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

avalanche and other dangers; to promote the health, safety, and general welfare of the community; to preserve and conserve local water resources; to prevent the overcrowding of land; to facilitate appropriate steep slope development; to facilitate adequate provisions for transportation, water, sewerage, schools, parks and other community requirements; to conserve the value of property; to promote economic development; and to encourage the most appropriate use of land throughout the Village.

In addition, the Village's objective is to facilitate and permit the orderly development of property within the Village, recognizing property within the Village is located on hillsides. Therefore, the Village has set forth hillside development standards as set forth below:

1. To establish a hillside development process that requires property owners to select suitable development sites on their real property for new hillside development projects based off of science-based conclusions, including the use of slope density calculations and maximum land holding capacity to determine the appropriate density and intensity of a structure that can be built on a particular hillside slope.
2. To involve participation of affected resource agencies at an early stage of the application process with new hillside development projects.
3. To protect the value to the community and the subject property of ridgelines, prominent landforms, rock outcroppings, open space areas, hydrologic features, wildlife communities, unique and sensitive habitats and vegetation communities, and other natural, biological, and scenic resources.
4. To encourage all of the characteristics and qualities of a cohesive neighborhood that promotes a sense of place within a hillside setting.
5. To promote and encourage a variety of high quality, alternative architectural and development designs and concepts appropriate for hillside areas by utilizing the highest quality of prescribed standards.
6. To preserve the public health, safety, and welfare and specifically protect the public and property from hazards such as seismic, geologic, and fire.

### **SECTION 3. APPLICATION.**

All structures, land and water improvements to be constructed or placed within the Village shall be in accordance with all applicable codes, ordinances, state and federal laws and regulations.

No Structure shall be constructed or placed, and no land use commenced or continued within the Village except as authorized by this Ordinance. Any use not designated as Permissive or Conditional within a particular zone is prohibited from that zone, except as otherwise provided in this Ordinance. The zones described herein are shown on the Village Zoning Map, which is made a part of this Ordinance, maintained by the Planning Officer and is available to the public at the Village office.

### **SECTION 4. DEVELOPMENT REVIEW AND PRE-APPLICATION PROCESS.**

#### **1. Pre-application Process**

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1. Prior to the submittal of an application for any permit, the property owner or an agent with written authorization is to meet with the Planning Officer or designee to review the requirements of the Village of Taos Ski Valley.
2. The purpose of the pre-application review is to review the requirements, to identify and review available information regarding physical conditions affecting the property for which the application will be submitted, to respond to questions of the property owner or agent, and to present and review policies affecting use and development of the property
3. The pre-application review process is not meant to constitute a comprehensive permit application review and should not be considered to commence any timeline, whether under the New Mexico Environment Department, U.S. Army Corps of Engineers, or any governmental agency.
4. At the time of the Pre-Application meeting, the Planning Officer will give the property owner or owner's authorized agent the Village Fee Schedules, this Zoning Ordinance, Building Code Requirements and Checklists, Landscaping, Grading and Excavating, Permit Regulations, Foundation Permit Regulations, Subdivision Regulations, and Certificate of Compatibility checklists and other Village Code regulations and codes.

## 2. Development Review

1. For purposes of this Ordinance, no building or structure shall be erected or improvements constructed within the Village without review of required documentation by the Planning Officer. Permit applications and plans shall be submitted to the Planning Officer for review before applying for Permit(s). The Planning Officer shall determine if a Variance, Zone Change, or Conditional Use Permit is required, and if so, will notify the applicant of such requirements and that the application for a Variance, Zone Change or Conditional Use Permit may be reviewed by the Commission. The applicant shall then apply for any required Variance, Zone Change, or Conditional Use Permit in accordance with the provisions of this Ordinance.

## SECTION 5. INTERPRETATION.

The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this Ordinance are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

## SECTION 6. DEFINITIONS.

### 1. Word Forms.

For the purpose of this Ordinance, certain words or phrases used herein shall be interpreted as follows:

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1. The word "person" includes an individual, association, partnership, company, corporation, or any other legal entity.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. The words "shall" and "must" are mandatory, the word "may" is permissive.

## 2. Definitions.

The following definitions apply to this Ordinance:

1. "Accessory" means subordinate and incidental to a principal Use or Structure on the same grounds.
2. "Accessory Building" means a subordinate building, the use of which is customarily incidental to that of the principal building or to the principal use of the land and which is located on the same lot or parcel with the principal building or use. Accessory buildings shall not be provided with a kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy. An accessory building may include a detached garage, detached carport or storage facility.
3. "Adult Amusement Establishment" means:
  - a. An establishment which provides amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas;
  - b. An establishment which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment; or
  - c. An establishment, which, upon payment of a fee provides an escort or a dance partner to its patrons.
4. "Adult Book Store" means an establishment having a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.
5. "Adult Photo Studio" means an establishment, which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas.
6. "Adult Theater" means a theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

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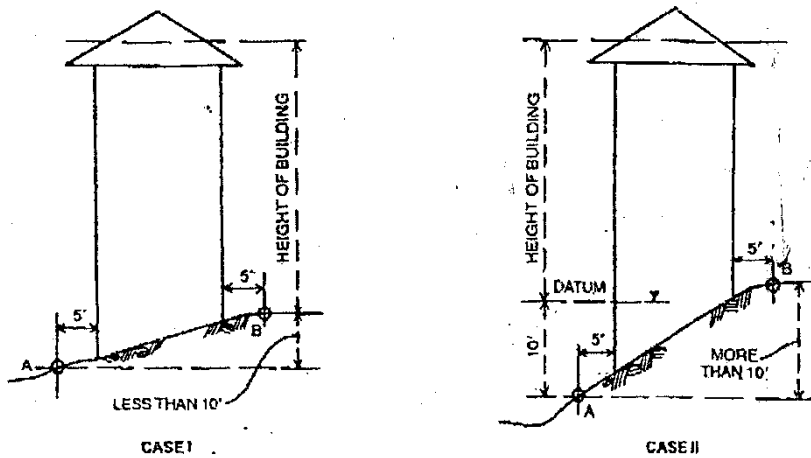


7. "Adult Video Store" means an establishment having a substantial or significant portion of its stock in trade videos, tapes, CD ROMS, computer discs or other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.
8. "Alpine Rustic Elegance" means the type of architectural design incorporated in the Village of Taos Ski Valley, which resembles mountain comfort design as opposed to urban or modern contemporary design, with timber and native rock accents. Exterior colors and appearance blending with a natural environment.
9. "Apartment House" means one or more structures for rent or lease containing two or more Dwelling Units each.
10. "Auxiliary Unit" means a separate living unit to the main unit or standing alone, having no more than one bedroom and meant to be occupied by a person or persons taking care of the primary dwelling unit.
11. "Avalanche" means a fall or slide of a large mass of material, such as snow, rock or earth, down a mountainside.
12. "Bedroom" means any room that can be used for sleeping within a dwelling unit that contains closet space and has access to bathroom facilities. Den, family or recreational rooms may be considered bedrooms if determined to meet the requirements above.
13. "Berm" means an earthen mound designed to provide visual interest, screen undesirable views or building elements, prevent runoff, and/or provide erosion control.
14. "Boarding, Rooming, or Lodging House, Bed and Breakfast Establishments" means a Building other than a hotel or restaurant where lodging, with or without meals, has three or more guest rooms with communal eating, sanitary, and living accommodations.
15. "Buffer" means an open space or physical element, such as plants, berms, fences, or walls, which physically separates or visually screens other land uses.
16. "Building" means any Structure having a roof supported by columns or walls, and designated or intended for shelter, support, enclosure or protection of persons, animals, or personal property.
17. "Residential and C-B Zones Building Height" means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the highest point of a mansard roof or to the average height of the highest gable on a pitched or hipped roof. Grade shall be taken as a point on the ground five horizontal feet from two opposite sides of the building. The reference datum shall be selected by one of the following; whichever yields a greater height of building.

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- a. The elevation of the highest grade when it is ten feet or less above the lowest grade; or



4.8 mm.

**DETERMINATION OF BUILDING HEIGHT IN FEET (mm)**

- b. An elevation ten feet higher than the lowest grade when the highest grade is more than ten feet above the lowest grade.
- c. The height of a stepped or terraced building is the maximum height of any segment of the building.

Figure 1 R and C-B Zone Building Height

18. Core Village Zone (CVZ) Building Height

- a. CVZ "Building Height" means the vertical distance above a reference datum measured to the eave line of the roof edge. Grade shall be taken as a point on the ground five horizontal feet from two opposite sides of the building. The reference datum shall be the finished pedestrian space within five feet beyond each corner of the structure. When the development provides a pedestrian plaza or walkway, especially over a parking structure, the building height shall be measured as the vertical distance from the top of the plaza or walkway elevation to the eave line height. Stepped building masses should be measured by building segment rather than overall height.
- b. Building Height of principle structures shall not exceed 48 feet from reference datum to eave line.
- c. Tower elements and secondary building features may exceed this 48-foot eave limit to a maximum of 60 feet at the eave line.

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- d. Roof massing above the eave line shall not exceed a pitch of 12:12.
- e. Metal roofs shall have a finish reflectance rating of less than 20 units of gloss reflectance at an 85-degree slope.

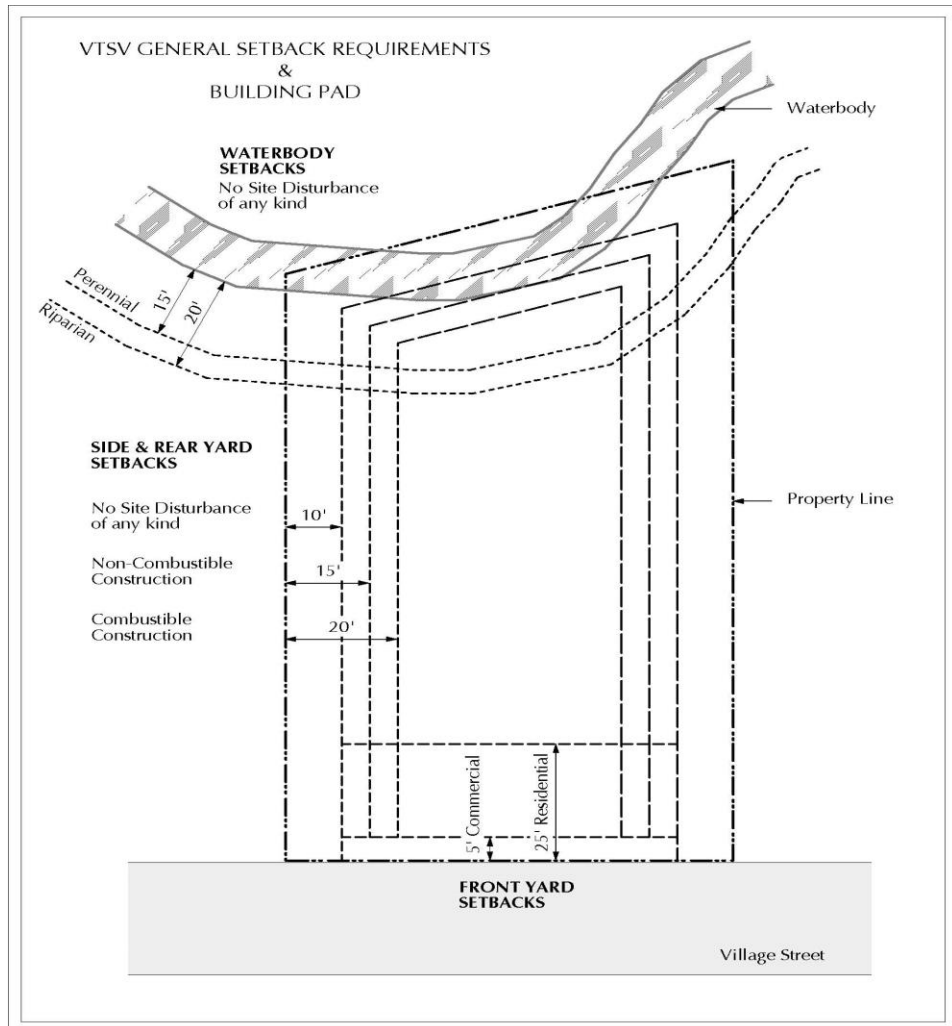


Figure 2 – Core Village Zone (CVZ) Building Height

- 19. “Building Permit” means the permit required for construction prior to beginning of demolition or construction pursuant to the New Mexico and International Building Codes as amended.
- 20. “Building envelope” means the three-dimensional volume on a site, which is bounded by the required front, side, rear, and water body setbacks, and by the allowable building height.
- 21. “Building pad” is the buildable area on a lot within which a developer may construct footings, piers, and allow access for wall construction and detailing.

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22. "Capital Improvement" means land or facilities for purposes of constructing or improving public facilities; for transportation and transit, including without limitation, streets, street lighting and traffic-control devices and supporting improvements, roads, overpasses, bridges, and related facilities; storm drainage facilities; for parks and recreational improvements; for acquisition of open space; for public safety, including police and jail facilities; for public buildings of all kinds; and for any other capital project identified in the Village's Capital Improvement Plan. Capital improvement also includes the design, engineering, inspection and testing, planning, legal, land acquisition, and all other costs associated with construction of a public facility.

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23. "Certificate of Compatibility" is a certificate issued by the Village's Planning Officer, which considers the proposed structures' abilities to bring together land planning, architecture, aesthetics and economic cohesiveness within the appropriate zoned properties in the Village. A certificate of compatibility shall be obtained prior to submittal of an application for a building permit for development.
24. "Certificate of Occupancy" means a document issued by the Village Planning Officer or Village Planning Department certifying a building's compliance with applicable building codes and certifying that it may be occupied.
25. "Clinic" means an establishment occupied by one or more members of the medical, dental, or veterinary profession for the purpose of providing health services.
26. "Club" means any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating and/or recreational uses, and further whose activities are not conducted for monetary gains; including but not limited to civic, fraternal, charitable, religious, social and patriotic organizations.
27. "Collection" means the point at which the development impact fee is actually paid to the Village.
28. "Commercial" means a use of property for purposes other than a permissive use or conditional use in a residential zone.
29. "Commission" means the Planning and Zoning Commission of the Village.
30. "Conditional Use" means one of those uses enumerated as conditional uses in a given zone. A permit for such use must be granted by the Commission and may be either permanent or renewable, depending upon the conditions and procedures specified by this Ordinance.
31. "Condominium" means one or more structures containing two or more dwelling units each that are sold to and held under individual ownership by the occupants, and which may or may not include ownership of the land upon which the dwelling units are situated. This includes townhouses, patio houses, and other similar forms of individual ownership.
32. "Contiguous" means touching or separated only by a Public Right-of-way.
33. "Council" means the Village Council of the Village.
34. "Deciduous" means a plant or tree, which sheds its foliage annually.
35. "Demolition" means to raze, disassemble, tear down or destroy an existing structure. The removal of a dwelling unit in a multi-family or mixed-use building or its conversion to non-residential use shall also constitute demolition.
36. "Development" means the use or alteration of land or land uses and improvements inclusive of, but not limited to: 1) the creation, division, alteration or elimination of lots;

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- or 2) mining, drilling (except to obtain soil samples or to conduct tests) or the construction, erection, alteration or demolition of buildings or structures; or 3) the grading, excavation, clearing of land or the deposit or fill in preparation or anticipation of future development, but excluding landscaping.
37. "Development fee" or "DIF" means a monetary fee imposed by the Village pursuant to Section 22 as a condition of or in connection with approval of a new development project for the purpose of financing, defraying or reimbursing all or a portion of the costs incurred by the Village for public facilities and services.
38. "Dwelling, Multi-Family" means a single structure containing two or more dwelling units including but not limited to condominiums and apartments.
39. "Dwelling, Single-Family" means a detached dwelling unit in a structure other than a mobile home designed for and occupied by one family only. Provided however, a dwelling may be used by more than one family as guests of the owners on a temporary basis.
40. "Dwelling Unit" means any building or portion thereof, which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, and is intended for occupancy by a family and its guests, independent of other families or guests. May also be referred to as a dwelling.
41. "Evergreen" means a plant or tree having green foliage throughout the year, or that is coniferous.
42. "Family" means any individual, or two or more persons related by blood or marriage or between whom there is a legally recognizable relationship, or a group of not more than four unrelated adults occupying the same dwelling unit on a continuous basis for a period of time greater than one month.
43. "Excavation and Grading Permit" means the permit that is required prior to any excavation or grading being performed on the Lot.
44. "Farming," means cultivation and/or harvesting of any plants, trees, fruits or vegetables and/or the raising of livestock.
45. "Fence or Wall" means any structural device forming a physical barrier between two open areas. Materials used in the construction of a fence or wall shall not pose health or safety hazards to the community and shall not be disruptive to the rural residential character of the Village and shall comply with Village Design Standards.
46. "Footprint" means the horizontal extent to which a structure covers the ground plane as represented in the plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.
47. "Foundation Permit" means the permit that is required prior to any building foundation work performed on the Lot.

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

48. "Frontage" means a distance measured along a Public Right-of-way line.
49. "Garage, Commercial" means a Building other than a private garage, used for the care, repair of equipment, automobiles or other motorized equipment or where such vehicles are parked or stored for payment or sale within the Structure.
50. "Garage, Private" means any accessory Building or portion of a Building for the primary purpose of housing motorized vehicles, which are owned and used by the occupants of the main Building.
51. "Garbage" means putrescent animal or vegetable waste resulting from the handling, propitiation, cooking or consuming of foods, offal, scum, dregs, sediment, sweepings, trash, debris, remains, and dross.
52. "Grade" means the average of the finished ground level as defined in Section 6. 2-17.
53. "Home Occupation" means any occupation or activity clearly incidental and secondary to use of the premises for a dwelling. There shall be no exterior storage of materials, no nuisances emitted from the premises, and no other exterior indication of the home occupation except for one sign.
54. "Impose" means to determine that a particular development is subject to collection of a DIF as a condition of development approval.
55. "Intermittent Stream" means a watercourse or overflow channel that flows during snow melt and run-off conditions during a portion of the year.
56. "Landscaping" includes but is not limited to plants, shrubs, trees, ground cover, rocks, berms benches, planter boxes, retaining walls, or terraces.
57. "Lot" means a parcel or tract of land of sufficient size to meet the minimum requirements of this Ordinance, platted and placed on the County Clerk's record in accordance with laws and ordinances, described by metes and bounds, and with Frontage or legally approved access to Public Right-of-way.
58. "Lot Area" means the aggregate lot area measured to property lines, but excluding public or prescriptive easements.
59. "Lot, Corner" means any Lot located at the intersection of, and having Frontage on two or more intersecting streets.
60. "Lot, Double Frontage" means any Lot with Frontage on two parallel or approximately parallel streets.
61. "Lot Line, Front" means the boundary line of a Lot bordering on a road or a Public Right-of-way.
62. "Lot Line, Rear" means the boundary line of a Lot, which is opposite and most distant from the Front Lot Line and does not connect to the Front Lot Line.

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63. "Lot Line, Side" means any Lot boundary line, which is not a Front Lot Line, or a Rear Lot Line.
64. "Mean High Water Line" means the bank of any river or stream established by the annual fluctuations of water generally indicated by physical characteristics such as the top of a bank, changes in soil condition or vegetation line.
65. "Mobile Home" means a movable or portable housing structure as defined in Subsection B of Section 3-22-2 NMSA 1978.
66. "Mobile Home Park" means a facility designed and used for single family residential occupancy exclusively in mobile homes with pads or sites that are rented or leased for periods of thirty days or more, or are sold, exclusively for mobile home placement and occupancy.
67. "Mobile Home Subdivision" means a subdivision in which lots are sold exclusively for mobile home occupancy.
68. "Modular or Manufactured Home" means a modular or manufactured home as defined in Subsection A of Section 3-22-2 NMSA 1978.
69. "Nonconforming Uses, Lots or Structures" means any Building, Structure or portion thereof, or use of any Building or land which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of the regulations to which it does not conform.
70. "Non-residential new development project" means all development other than residential development projects.
  - a. General Commercial shall mean those types of uses as permitted within the commercial districts.
  - b. Lodging shall mean hotel, motel, timeshare, bed and breakfast or similar lodging uses as permitted within the commercial district.
71. "Parking, Off-Street" means an area used for required parking of motorized vehicles as regulated by this Ordinance.
72. "Perennial Stream" means a natural watercourse that flows year round.
73. "Permissive Use" means any use authorized in a particular zone district established by this Ordinance
74. "Planning Officer" means the individual or individuals appointed by the Village to enforce the Village's Land Use, Planning, Building, Excavation, Landscaping, and Foundation Codes.

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75. "Planning Office" see Planning Officer.
76. "Plaza" is a public square for pedestrians and open space in a town, village, or city, containing shops, restaurants, benches, landscaping, or other amenities for the benefit of the public.
77. "Plot Plan" or "Site Plan" is a graphic representation of any existing or proposed development on a lot, which includes a survey boundary to scale and depicts the spatial relationship to surrounding properties and public rights-of-way.
78. "Premises" means any Lot or combination of Contiguous Lots held in single ownership together with the development thereon.
79. "Public facilities" means necessary public services that are permanent additions to the Villages assets that are primarily financed by long-term debt instruments and not from the Village's annual operating budget and which include design, construction, or purchase of land, buildings and facilities.
80. "Public Right-of-Way" means a thoroughfare which has been dedicated to the public by deed, or reserved by plat, acquired by prescriptive easement, or otherwise acquired by the Village, County, State, Federal Government or other governmental entity.
81. "Public Works Plan" means an improvement analysis, conducted and prepared by the Village Planning Department and/or Village Engineer, delineating what necessary sewer, water, drainage, street, storm water, floodplain, well head and easements improvements will be needed.
82. "Recreation" means the use of the land for relaxation, exercise or other enjoyable pastimes.
83. "Recreational Trail" means a single track or narrow two track pathway across land or snow, used for recreational purposes such as, but not limited to snowshoeing, bicycling, skiing, day hiking, equestrian activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activities and vehicular travel by motorcycle, four-wheel drive or all-terrain off road vehicles.
84. "Residence" means a single-family dwelling unit, which contains living facilities, including provisions for sleeping, eating, cooking and sanitation for a single family.
85. "Residential development project" means any development undertaken to create a new dwelling unit.
86. "Riparian Zone" means the area along a fish-bearing stream as defined and regulated by the Surface Water Authority of the New Mexico Environment Department.

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

87. "Setback" means the minimum allowable distance between any Building and the nearest lot line of the Lot upon which it is located, consisting of open space, unoccupied by any Structure except as otherwise provided in this Ordinance.
88. "Setback, Front Yard" means the minimum allowable distance between any Building and the Front Lot Line of the Lot on which such Building is located. No more than one front yard setback shall be designated on Corner Lots or Double Frontage Lots.
89. "Setback, Rear Yard" means the minimum allowable distance between any Building and the Rear Lot Line of the Lot on which such Building is located. On Double Frontage Lots, the rear yard setback shall be designated on the opposite side of the Lot from the designated Front Yard Setback.
90. "Setback, Side Yard" means the minimum allowable distance between any Building and a Side Lot Line of the Lot on which such Building is located. On Corner Lots, a side yard setback shall be designated along the lot line bordering a road or street that is not designated as the Front Yard Setback.
91. "Site Plan", see Plot Plan.
92. "Screen" means a method of reducing the impact (both audio and visual) of undesirable elements with less offensive or more harmonious elements, such as plants, berms, fences or any other elements.
93. "Shopping Center" means an integrated retail commercial development occupying a site under a single ownership, control, or condominium interest, and containing five or more businesses, which are connected or clustered with common parking and vehicle access.
94. "Shrub" means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground. May be deciduous or evergreen.
95. "Sign" means any display to public view of letters, words, numerals, figures, statues, devices, emblems, logos, pictures or any parts of combinations thereof designed to inform or advertise or promote merchandise, services or activities.
96. "Sign Face" means the area of the Sign or Signs, which is enclosed by a continuous line, connecting the extreme points or edges of the Sign, but not including structural support of the Sign. For any two-sided Sign, only one Sign Face shall be counted in computing the Sign size.
97. "Solid Waste" means any garbage, refuse or other discarded material resulting from industrial, commercial, mining, construction, agricultural or community activities.
98. "Specified Anatomical Areas" means less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top to the areola to and including the bottom of the breast, covering of only the nipple and areola of the breast does not constitute such covering; and human male genitals in a discernibly turgid state, even if completely opaquely covered.

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99. "Specified Sexual Activities" includes the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
100. "Spring" is defined as any location where water emanates from a point in the ground. Springs do not include seeps or other discharges which do not have a defined channel.
101. "Square footage" means the calculation of an area as required by this and other codes in a manner that is consistent with the intent of the applicable code and/or calculated as described in the applicable code or section thereof.
102. "Structure" means anything constructed or erected with a permanent location on the ground, or attached to something having a permanent location on the ground.
103. "Steep Slope" For purposes of regulation and measurement, a steep slope must involve an elevation change of at least 30%. Slope means the inclination of land from the horizontal, determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value.
104. "Temporary Building" means a structure that is designed for temporary use upon a lot for a period not to exceed the time in which a conditional use permit is issued or two years, whichever is less.
105. "Trailer" means a vehicle, regardless of size, without motive power, designed to be towed by a motor vehicle.
106. "Trailer or Recreational Vehicle, Court or Park" means any area or tract of land where space is rented or held for rent to owners or users of travel trailers or recreational vehicles for temporary human habitation.
107. "Travel Trailer or Recreational Vehicle (RV)" means any trailer or motor vehicle designed as a temporary dwelling for travel, recreational and vacation uses, and having a maximum size of eight feet in width and thirty feet in length.
108. "Use" means the purpose for which land or a Building is designed, arranged or intended or for which it is occupied or maintained, let or leased.
109. "Variance" means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in practical difficulty and unnecessary hardship. Financial gain or loss shall not be the determining factor in deciding a Variance.
110. "Wetlands" are generally associated with a contiguous area within an existing watercourse or spring. Identifying characteristics for wetlands includes the

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presence of water, soil type and unique plant life associated with the wetland environment. Wetlands are controlled and certified by the United States Army Corps of Engineers.

111. "Xeriscape" means landscaping using plant materials and methods which require less than average water

112. "Zone District" means any section of the Village in which requirements for the Use of Buildings and land are uniform, as prescribed by this Ordinance.

## **SECTION 7. GENERAL PROVISIONS.**

### **1. Access to Structures.**

All Structures shall be so located on Lots of land such that safe and convenient access is provided for servicing, fire protection, emergency services, snow removal, and any required Off-Street Parking or loading.

### **2. Solid Waste Disposal.**

All persons owning or occupying lands within the Village shall be responsible for the sanitary conditions of their Premises. No person shall permit or cause the accumulation of solid waste which may become hazardous to public health or safety, or which obstructs traffic, drainage or access to Structures. All refuse areas shall be screened from public view.

### **3. Sanitary Facilities.**

During a construction period, all contractors shall provide adequate sanitary facilities for workers and no building materials shall be stored on public rights-of-way.

### **4. Snow Safety.**

#### **1. Containment of Snow and Ice on Private Property**

- a. It shall be the duty of all owners or occupants of private property to contain snow and ice on and within the boundaries of the private property and to prevent snow and ice from spilling or overflowing onto any public right-of-way or other public property. The property owner, lessee, tenant, occupant, agent or any person otherwise in possession or control of the private property shall be responsible for the immediate removal and cleaning of any snow, ice, or other materials intentionally, negligently or inadvertently tracked, transferred, spilled, fallen, or otherwise deposited from private property onto any public right-of-way or other public property.
- b. Structures and lots shall be designed so that snow, ice, icicles, or other debris cannot spill over onto adjacent properties or public and private rights-of-way and shall be designed in such a way as to not create a public safety hazard.

#### **2. Private Property Snow Storage Requirement**

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- a. It shall be the duty of all owners of private property to provide snow storage space on the owner's private property. Private snow storage square footage requirements shall be equal to 20% of the total surface area that is to be cleared, including: sidewalks, patios, parking areas, or any other area that requires snow to be transported and stored.
- b. In lieu of the requirements stated above, an owner may present a snow storage plan for consideration and approval by Village staff. This plan must address offsite snow storage, private land transfers of snow, or other alternative snow mitigation methods.
  1. Shared temporary snow storage areas arranged by agreement between owners may be approved in denser areas of the Village, as long as the agreement addresses subsequent long term snow storage and states in detail the process of snow removal and storage between the interested parties.
  2. Private-land-to-private-land transfers of snow by mutual agreement between owners and private-land-to-Village transfers may be permitted so long as the transfer does not interfere with the snow plowing operations of the Village's Public Works Department.
3. Snow Placement onto Public Rights-of-Way, Firelanes, and Other Public Property.

It shall be unlawful for any person to transfer, deposit, or store snow and/or ice from private property onto, or to blow snow over, any public street, alley, public right-of-way, fire lane, or other public property without prior express authorization from the Village.

4. Public snow storage.
  - a. Public snow storage areas are required adjacent to public rights-of-way or dedicated where appropriate. Location shall be landscaped with ground cover and shrubs that can survive when area is used for snow storage.
  - b. Owners of properties adjacent to public roads are required to provide an appropriate space for approximately 50% of the snow that accumulates on the public road along the frontage of the property.  
Formula for calculating snow storage space for public roadways:  
Snow Storage Requirement = Total Road Square Footage x .20 (compaction factor) x ½ (each property owner responsible for one half of road).
  - c. Any setback defined and designated by Village Ordinance may be used by the Village for the placement and storage of snow from the Village road adjacent to the property.
  - d. In lieu of the requirements stated above, an owner may present a snow storage plan for consideration and approval by Village staff as set forth in paragraph 2.b and subparts above.

#### 5. Contractor Snow Plowing Agreement

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- a. Commercial Snow Removal: Prior to commencing work under any written or verbal agreement for private or public snow removal requiring the use of public roads and public right of ways, every contractor must notify and meet with Village Staff in order to locate infrastructure and utilities that might be buried or are not visible due to weather conditions. Additionally, all contractors shall be required to sign the Contractor's Snow Plowing Agreement in order to identify every equipment operator, to identify how and where the contractor intends to access public rights-of-way and roadways, and to identify where the contractor intends to deposit the relocated snow.
- b. Any property owner who, in the course of removing, plowing or relocating snow, whether individually or through an agent such as a contractor acting on behalf of the owner, causes damage to Village property, including but not limited to Village infrastructure, public rights-of-way, and public property, shall be liable to the Village for the damage caused by the snow removal, plowing or relocation activity. Property owners are advised to contact Village staff to confirm that a particular contractor has executed the Contractor's Snow Plowing Agreement.

6. Duty to Maintain Sidewalks.

- a. Maintenance: All sidewalks and curbs shall be maintained with an even surface in good repair and in conformity with the established design of the streets along which they are constructed. It shall be unlawful for any person to remove snow in a manner that damages the sidewalks, curbs and gutters, trees within sidewalks, or Village street lights.
- b. Duty to keep sidewalks and adjacent areas clean:
  1. The purpose of this section is to allow the public and patrons free and unobstructed access to properties without the necessity of climbing over or going around a berm or other obstruction of any kind.
  2. It shall be the duty of all owners or occupants of every residential or commercial property situated adjacent to a public sidewalk to keep the entire area between the edge of the sidewalk closest to the building and the gutter, free and clear of snow, ice, dirt, debris, rubbish, and filth. The area to be cleared shall include, but not be limited to, the sidewalks and curbs in front of the building, graveled areas, brick areas, and areas around planters, benches, trees, and bushes. The areas to be cleared do not include flowerbeds, elevated planting areas, and other elevated areas. The area to be cleared shall be cleared of snow and ice within 24 hours following the snowfall or accumulation of a snowdrift or ice. Snow from the areas to be cleared may not be shoveled into the streets.

7. Penalties

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- a. Any person, including an owner or occupant of a property, or an agent, including a snow-removal contractor acting on behalf of an owner, violating any of the provisions of Village Ordinance 14-30 Section 7.4 Snow Safety shall be given a written warning for a first offense. If the violation is not corrected within a period of seven days, or if there is a repeat violation at a later date, the violator shall be charged with a petty misdemeanor and, upon conviction, shall be subject to a fine of not less than \$100.00 and not more than \$500.00, or imprisonment for a period not to exceed 90 days, or both. Any violation that continues uncorrected for a period of seven days shall constitute a separate offense.
- b. Civil Liability: In the event the owner, lessee, tenant, occupant, agent, or any person otherwise in possession or control of the private property, fails to comply with any of the provisions of Village Ordinance 14-30 Section 7.4 Snow Safety subsection, or otherwise deposits or moves snow, ice, or other materials upon or across a public street, alley, public right-of-way, or other public property, the owner, lessee, tenant, occupant, agent, or any person otherwise in possession or control of the private property thereof, shall be liable for any resulting injuries. Any civil liability for injuries caused by the condition of the public street, alley, public right-of-way, or other public property or the failure to comply with this subsection Village Ordinance 14-30 Section 7.4 Snow Safety shall be imposed solely upon the owner, lessee, tenant, occupant, agent, or any person otherwise in possession of the private property, and not upon the Village of Taos Ski Valley.

## 5. Measurement.

1. Measuring areas to be included in calculations: The total square footage of all levels of a building, as measured at the outside face of the structure exterior walls and all exterior above grade decks and covered decks on grade, except where specifically excluded, shall be included in all calculations. In the case of adjoining units, measurements shall be taken from the centerline of walls separating adjoining units of a building.
2. Exclusions.
  - a. Areas covered by decks. Areas covered by an above grade deck shall be excluded from square footage calculations, provided said areas: 1.) Are not located above finished grade; and 2.) Are not enclosed, in whole or in part, by railing, landscaping, screening or other materials higher than three feet above finished grade.
  - b. Attic space. Attic space that does not contain mechanical devices which use a combustible source or open flame and are less than five and one-half feet (5'6") in height, measured to the bottom of primary members, for 90% of the area of the attic space, shall be excluded from the calculation. If rational construction methods will not permit a maximum height of five and one-half feet (5'6"), such restriction may be waived.

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- c. Crawl space. Crawl space that does not contain mechanical devices which use a combustible source or open flame and are less than five and one-half feet (5'6") in height, measured from finished grade to the bottom of primary members, for 90% of the area of the crawl and attic space, shall be excluded from the calculation. If rational construction methods will not permit a maximum height of five and one-half feet (5'6") such restriction may be waived.

## 6. Avalanche Design Requirements

Prior to the Village issuing a building permit for the construction of a new, freestanding building to be occupied by one or more persons, the applicant must provide the following to the Village for review by the Planning Officer:

1. A written report analyzing the potential avalanche hazards and the potential physical forces, if any, created thereby upon the proposed improvement or structure, and;
2. A structural analysis of the proposed building or structure prepared and sealed by a New Mexico licensed engineer reflecting an engineering analysis and design which states that the design of the building or structure can withstand the potential force from an avalanche as set forth in the avalanche report referred above. This analysis shall be required only if the referenced report indicates that an avalanche hazard exists.
3. The issuance of a building permit by the Village shall not be construed to mean that the Village agrees that the proposed building will withstand an avalanche.

## SECTION 8. PERMIT APPLICATIONS

### 1. Certificate of Compatibility

1. Intent and purpose. The certificate of compatibility is applicable to all areas that permit residential and commercial properties within the Village. The certificate of compatibility considers whether structures and manufactured homes have appropriate land planning, architecture, aesthetics and economic cohesiveness to fit within zoned properties in the Village.
2. Planning Officer's Authority. In issuing a certificate of compatibility, the Planning Officer shall have the authority, as an administrative act, subject to the provisions of this section, to require conditions of development in addition to those required by this title where it is determined that such conditions are necessary to further the objectives of the general plan and are in harmony with the intent, purpose and spirit of this Ordinance and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village.
3. Application. Application shall be made for a Certificate of Compatibility as described herein, together with the requisite fee therefore.

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4. Fees: At the time of Application for Certificate of Compatibility, Owner or Owner's authorized agent shall pay an Administrative Plan Review Fee and Infrastructure Review Fee.
5. Time Limit
  - a. The Planning Officer may approve or disapprove the Certificate of Capability within ninety days following the submission of the above. The decision shall set forth the findings and improvements necessary, in writing, and incorporate the Village Engineer's infrastructure approvals and/or upgrades necessary to minimize impacts on Village Infrastructures (Public Works Plan). The Planning Officer and/or Village Engineer's findings shall be filed with the Planning Commission. Copies shall be mailed to the applicant.
  - b. The Certificate of Compatibility shall automatically expire and be of no further force and effect if not exercised within two years of its effective date.

## 2. Excavation and Grading Permit

1. Intent and purpose. The excavation and grading permit is required by any owner or owner's authorization representative prior to the initiation of any grading, excavation, fill or dredging activities.
2. Planning Officer's Authority. In issuing an excavation and grading permit, the Planning Officer shall have the authority, as an administrative act, subject to the provisions of this section, to require conditions of development in addition to those required by this title where it is determined that such conditions are necessary to further the objectives of the general plan and are in harmony with the intent, purpose and spirit of this title and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village.
3. Application. Application shall be made for an excavation and grading permit as described herein, together with the requisite fee therefore.
4. Fees. Owner shall pay the excavation and grading permit fee or owner's authorized representative at the time of filing said Application.
5. Time Limit. The Planning Officer may approve or disapprove the Excavation and Grading Permit within twenty-one days following the submission of the required documentation. The decision shall set forth the findings and any additional documentation needed, in writing. The Planning Officer's findings shall be filed with the Planning Commission. Copies shall be mailed to the applicant.

## 3. Foundation Permit

1. Intent and purpose. The foundation permit is required by any owner or owner's authorization representative prior to the initiation of footings, piers, or other foundation work.
2. Planning Officer's Authority. In issuing a foundation permit, the Building Official shall have the authority, as an administrative act, subject to the provisions of this section,

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to require conditions of development in addition to those required by this title where it is determined that such conditions are necessary to further the objectives of the general plan and are in harmony with the intent, purpose and spirit of this title and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village.

3. Application. Application shall be made for foundation permit as described herein together with the requisite fee therefore.
4. Fees. Owner shall pay the foundation permit fee or owner's authorized representative at the time of filing said Application.
5. Time Limit. The Planning Officer may approve or disapprove the Foundation Permit within thirty days following the submission of the required documentation. The decision shall set forth the findings and any additional documentation needed, in writing. The Planning Officer's findings shall be filed with the Planning Commission. Copies shall be mailed to the applicant.

#### 4. Building Permit

1. Intent and purpose. The building permit is required by any owner or owner's authorization representative prior to the initiation of any Structure.
2. Planning Officer's Authority. In issuing a building permit, the Planning Officer shall have the authority, as an administrative act, subject to the provisions of this section, to require conditions of development in addition to those required by this title where it is determined that such conditions are necessary to further the objectives of the general plan and are in harmony with the intent, purpose and spirit of this Ordinance and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village.
3. Application. Application shall be made for a building permit together with the requisite fees therefore.
4. Time Limit. The Planning Officer may approve or disapprove the Building Permit within sixty days following the submission of the required documentation. The decision shall set forth the findings and any additional documentation needed, in writing. The Planning Officer's findings shall be filed with the Planning Commission. Copies shall be mailed to the applicant.
5. Prior to the Village issuing a building permit, the applicant must provide:
  - a. All documentation required under the Village Design and Building Review standards;
  - b. All improvements required by the Village Planning Department and/or Village Engineer in the Public Works Plan at the time of the Application of the Certificate of Compatibility have been completed or completion plans, designs and costs are approved by an agreement approved by the Village Council.

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- c. The issuance of a building permit by the Village shall not be construed to mean that the Village agrees that the proposed building will withstand an avalanche.
- d. All permit, system development and impact fees set forth by the Village Council shall be paid prior to the issuance of a Building Permit.

## 5. Certificate of Occupancy

Construction of a building or structure, including auxiliary units and accessory uses must be completed and a Certificate of Occupancy issued by the Village within two years of receipt of a building permit, unless a longer term is approved by the Planning Officer. From time to time, at the Planning Officer's discretion, a Temporary Certificate of Occupancy will be issued as phases are completed and public safety issues have been resolved. The Planning Officer will state to the Owner or Owner's Authorized Representative, issues and findings that need to be resolved, in writing, prior to a Final Certificate of Occupancy being issued.

## 6. Sign Permits

1. Intent. The intent of these Sign Permit regulations is to provide visible and attractive commercial advertisements, protect constitutional rights to the freedom of speech, provide for public safety, and enable safe pedestrian and vehicular traffic while minimizing the visual clutter of Signs at the building frontage, the streetscape, and the community.
2. Purpose. The purpose of these regulations is to provide fair and consistent application and Permit procedures for Signs within the Village.
3. Permit Required. A Sign Permit is required by any property owner or owner's authorized representative prior to erecting any signage unless the Sign is exempt from these regulations.
4. Planning Officer's Authority. In issuing a Sign Permit, the Planning Officer shall have the authority, as an administrative act, subject to the provisions of this section, to require conditions of approval in addition to those required by this section where it is determined that such conditions are necessary to further the goals, policies, and objectives of the Village Comprehensive Plan or any other applicable plan and are consistent with the intent and purpose of this section and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village. The Planning Officer may require the owner to remove or relocate any Sign that is not maintained or not permitted under the provisions of this section or does not comply with the design standards of this section.
5. Application. An application shall be submitted to the Planning Officer for a Sign Permit together with the required fee and supportive documents and illustrations prior to erecting any signage that requires a permit under this section. The application must be signed by the property owner or the owner's representative where the Sign will be erected or signed by an authorized representative of the property owner prior to the Planning Officer's review of any application.
6. Time Limit. The Planning Officer may approve or disapprove the Sign Permit application within ten days following the submission of the complete application. The decision of the Planning Officer shall set forth the findings and any additional documentation needed, in writing. Copies of the Sign Permit shall be provided to the applicant.

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7. Liability. The provisions of this section shall not limit the liability of any person who erects or owns any sign from personal injury or property damage resulting from the placement of a sign, or resulting from the negligence or willful acts of such person or his/her agents, employees or workers, in the construction, maintenance, repair, or removal of any sign erected in accordance with a permit issued under the provisions of this title. The provisions of this title shall not impose upon the Village, its officers, employees, or the Commission, any responsibility or liability by reason of the approval of any Sign.
8. Definitions & Design Standards. For the purpose of this section the following definitions and design standards shall apply:
  - a. Awning. A rooflike shelter of canvas or other similar material extending over a doorway, from the top of a window, or over a deck in order to provide protection from weather. An awning will be considered as a Permanent Building-Mounted Sign and therefore subject to these regulations if the awning includes advertisements or identification of a business within the building where it is attached.
  - b. Banner. A Temporary Sign consisting of fabric, canvas, rubber, plastic or similar material, with no other rigid structural support. A Sign Face of a Banner shall not be more than twelve square feet. Banners must not be affixed to a Freestanding Sign, a Multi-tenant Center Sign or a vehicle.
  - c. Building-Mounted Sign. A Permanent Sign mounted flush or perpendicular to any exterior surface of a building, including Signs affixed to or incorporated into an Awning. A Sign Face erected flush to the building shall not be greater than thirty square feet. A Sign Face erected perpendicular to the building shall not be greater than 8 square feet and shall be erected no less than eleven feet above any public space, pedestrian passage, or sidewalk. A Building-Mounted Sign erected flush to the building façade above the first story of a building must not exceed twelve square feet.
  - d. Business Directory. A Sign listing multiple tenants and their locations within a private development and may include a map depicting the location of businesses within the development. A Business Directory may be freestanding or affixed to a wall but must not exceed 6 square feet.
  - e. Construction Sign. A Sign identifying the building contractors or future occupants of a building under construction. A Sign Face of a Construction Sign shall not exceed eight square feet in a residential zone and shall not exceed twenty square feet in all other zones.
  - f. Cutout Letter Sign. A Building-Mounted Sign erected flush, without borders or background, to the building g façade consisting of cutout lettering or logo, on the building wall. The Sign Face is to be calculated at the smallest rectangle that would wholly contain each of the letters and logo (if applicable). The Sign Face of a Cutout Letter Sign shall not exceed sixty square feet.
  - g. Exempt Sign. A Sign that does not require a Permit under this section, provided that the Sign meets all of the design standards defined in this section.
  - h. Flagpole. A Temporary Sign affixed to a pole which advertises a business, product, or service.

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- i. Freestanding Sign. A Permanent Sign attached to an independent supporting structure not an integral part of a building. The Sign Face of a Freestanding Sign shall not exceed thirty square feet and be no taller than twenty feet measured at the highest point of the Sign. The base of the Freestanding Sign must be landscaped within two feet of the base in all directions.
- j. Gasoline Retailer Sign. A Sign used by gasoline retailers to display prices of gasoline as required by law. A Gasoline Retailer Sign shall not exceed twenty square feet.
- k. Home Occupation Sign. A non-illuminated Sign that advertises a business within a permitted home occupation within a residence. The Sign Face shall not exceed five square feet.
- l. Illuminated Sign. Any Sign that has characters, letters, figures, designs or outlines illuminated by an exterior artificial light source.
- m. Menu Board. A Wall-Mounted or Freestanding display case that encloses a restaurant menu. Only one Menu Board is permitted per building entrance to a restaurant or eating establishment. The Sign Face of a Menu Board must not exceed four square feet.
- n. Message Board. A Sign designed and intended to provide information to individuals within the ski area boundaries concerning ski conditions, lift operation or specific communications of a non-commercial nature. Any Message Board that is lit must be turned off by 7:00 PM and remain off until operations begin in the morning.
- o. Motorized Vehicle Sign. Signs mounted on a motorized vehicle, provided that any such vehicle with a Sign Face exceeding ten square feet is relocated at least every forty eight hours and used for the regular conduct of business.
- p. Multi-tenant Center Sign. A Sign that identifies businesses or other facilities within a single property but that does not advertise a product or service. The street address shall be no more than three square feet and shall be excluded from the calculation of the Sign Face. The name of the center shall be no greater than ten percent of the total Sign Face and shall not be included in the calculation of the total Sign Face. The maximum Sign Face for a Multi-tenant Center Sign shall be as follows:
  - 1) For a Multi-tenant Center that has two to five tenants, the maximum Sign Face shall be forty square feet.
  - 2) For a Multi-tenant Center that has six to nine tenants, the maximum Sign Face shall be sixty square feet.
  - 3) For a Multi-tenant Center that has ten or more tenants, the maximum sign area shall be eighty square feet.
  - 4) The Sign Face for each tenant shall be distributed evenly among all tenants.
  - 5) Multi-tenant Center Signs may contain two Sign Faces, although only one Sign Face shall be calculated as the total Sign Face as described in this section. All Multi-tenant Center Signs shall be engineered to withstand a gusting wind velocity of ninety miles per hour and to bear a dead weight load of forty pounds per square foot.
  - 6) Individual Multi-tenant Center Signs may not be closer than one hundred feet from one another.

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- 7) One Multi-tenant Center Sign may be attached to a wall. The Sign Face shall not exceed ten percent of the building facade to which it is affixed and shall not extend above the roof eave.
- q. Neon Tubing Sign. A sign which uses neon tubing as a part of the sign.
- r. Non-conforming Sign. A Sign legally existing at the effective date of this ordinance, which could not be built and erected under the terms of this ordinance.
- s. Off-Premises Sign. Any Sign that is not physically located on the premises to which the Sign refers. An Off-Premises Sign is only permitted during a real estate "open house" event or during a Special Event, provide the applicant for the Off-Premises sign receives written permission from the property owner where the Off-Premises Sign is located.
- t. On-Premises Sign. Any Sign that is physically located on the premises to which the Sign refers.
- u. "Open" or "Closed" Sign. A Sign that indicates if the business is open or closed for business. An Open or Closed Sign may be illuminated but must not animate or flash in any way. The maximum Sign Face shall not be greater than four square feet. Only one Sign is permitted per building entrance. Any neon or otherwise lit "Open" or "Closed" Sign must be turned off by 9:00 PM.
- v. Pennant. A Sign made of lightweight plastic fabric, or other similar material, including balloons, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
- w. Political Campaign Sign. A Sign related to an election which promotes a particular candidate or ballot item. A Political Campaign Sign is an Exempt Sign provided that the Sign is erected with permission from the property owner where the Sign is erected. A Political Campaign Sign shall not be placed more than sixty days prior to an election and shall be removed within three days following the election. Political Campaign Signs shall not exceed six square feet on each Sign Face.
- x. Real Estate Sign. Signs relating to the sale or lease of real property. An On-Premises Real Estate Sign Face must not exceed ten square feet. Only one On-premises Real Estate Sign is permitted. An Off-Premises Real Estate Sign Face must not exceed three square feet. Only one Off-premises Real Estate Sign is permitted. All Real Estate Signs shall be removed within five days after the property is sold.
- y. Recreational Trail Sign. A Sign that identifies a designated recreational trail at various points along the trail and that contains information important to users of the trail, such as directions, difficulty, identification of restrooms, camping, picnic or parking areas. Such Signs shall not be used to advertise or promote merchandise, services or commercial activities. Includes Signs giving ski trail names and difficulty of trail, ski area directional signs such as, but not limited to directions to lifts, lift lines, ski school meeting places and ski patrol facilities.
- z. Residential Sign. A Sign that identifies the family name or the name of the residence. A Residential Sign shall not be greater than two square feet.

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- aa. Sandwich Board. A Temporary Sign that is two-sided and meant to be removed as needed for change of information. A Sandwich Board shall not be greater than eight square feet. A Sandwich Board may be placed on a pedestrian passage, trail, or sidewalk provided that the placement does not prohibit the free flowing movement of pedestrians and shall not be located within any public right-of-way or interfere with the free ingress or egress to any entryway.
- bb. Security Sign. A decal or other Sign that identifies the name and contact information for security systems and services. The Sign Face of a Security Sign must not exceed one square foot.
- cc. Sign. Any display to public view of letters, words, numerals, figures, statues, devices, emblems, logos, pictures, or any parts or combinations thereof designed to inform or advertise or promote merchandise, services or activities.
- dd. Sign Face. The net geometric area enclosed by the display surface of the Sign and which encompasses the outer extremities of all letters, characters and delineations of the sign. On any two-sided Sign, only one side is counted in computing the Sign Face.
- ee. Sign Permit. The written approval issued by the Planning Officer giving permission to a property owner or applicant to erect a Sign according to the provisions of this section.
- ff. Special Event Sign. A Temporary, Off Premises Sign used exclusively for informational and/or directional purposes for a public or private event of a one-time, periodic or multi-day duration, including an "Open House" for the sale of real estate. The Signs must be designed primarily to provide specific information or directions concerning the event, but may indicate that the event or the Sign is sponsored by an individual, entity or product as long as the area containing the sponsoring information does not exceed twenty percent of individual Sign Face.
- gg. Street Address. Decals or other Sign that identifies the street name and number of the building. Street Address Signs must not be used to replace street number decals issued by the Village.
- hh. Street Banner. A Sign intended to be stretched across and hung over a public roadway. A Street Banner shall maintain a clearance of at least fourteen feet above street level but in no case shall the total height of the banner sign exceed twenty feet above street level.
- ii. Subdivision Sign. A Sign advertising lots for sale within a subdivided property. The On-premises Subdivision Sign Face must not exceed twenty square feet. The subdivider may apply for a Permit for up to three Off-Premises Subdivision Signs directing or leading prospective buyers to the subdivision. Such Off-Premises Subdivision Signs must have a Sign Face not exceeding three square feet. All Subdivision Signs shall be removed no more than five days after the last subdivided lot is sold.
- jj. Temporary Sign. A Sign that is not permanently fixed to the land or to a structure and that is designed or intended to be displayed for only for a limited period of time. A Temporary Sign is a Sandwich Board, Flagpole, or Banner.

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- kk. Traffic Direction Signs. A Sign that directs but does not obstruct the flow of traffic in or out of drives, parking areas, and buildings. A Traffic Direction Sign must not be larger than four square feet.
  - ll. Vacancy Sign. A Sign that indicates "vacancy" or "no vacancy" at a lodging establishment. A Vacancy Sign may be made from neon and must not exceed three square feet. Only one Vacancy Sign is permitted per entryway. Any neon or otherwise lit Vacancy Sign must be turned off by 9:00 PM.
  - mm. Wayfinding Sign. A Sign that identifies the pathway to locations of activities, facilities, businesses, and other locations intended to provide the public with travelling directions. A Wayfinding Sign cannot include commercial advertisements. A Way-Finding Sign may be erected only when the design, dimensions, and location are in substantial conformity with a plan approved by the Village Council. No other Sign may be affixed to a Wayfinding Sign.
  - nn. Window Display. Stickers, logos, posters, pictures, or other images attached to the interior of a window advertising or describing products or services or which advertise a "sale" or other special items, events, or discounts. Window Display may not exceed twenty-five percent of the total window frames. A window display may be made of neon.
9. Permitted Signs. The following types of Signs require a Permit prior to erecting the Sign.
- a. Permanent On-Premises Sign
    - 1) Two Permanent On-Premises Signs may be permitted per business to advertise each business, provided that the business is licensed in good standing with the Village.
    - 2) One of the two Permanent On-Premises Signs may be a Freestanding Sign, provided that only one such Freestanding Sign shall be allowed on any property. Buildings with multiple tenants are encouraged to share space on Freestanding or Building-Mounted Signs.
  - b. Multi-tenant Center Sign

One Multi-tenant Center Sign per street frontage may be permitted. All applicants for a Multi-tenant Center Sign are required to submit a master sign program to the Planning Officer prior to the issuance of any Sign Permit. The master sign program should include signs that are compatible in design among all tenant businesses within the Multi-tenant Center in order to foster integration of all Signs with the architectural style of the building or complex of buildings.
  - c. Home Occupation

One non-illuminated On-premises Sign may be permitted for each home occupation.
  - d. Temporary Sign

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Only one Temporary Sign Permit may be permitted per licensed business in good standing with the Village. A Temporary Sign Permit may only be approved twice per calendar year. Each Sign Permit must not exceed 180 consecutive days.

e. Street Banner

A Street Banner may be permitted for a duration not to exceed 30 consecutive days.

f. Special Event Sign

A Special Event Sign Permit may be permitted for Temporary Signs only by submitting a plan for the signage no later than twenty days prior to the special event. The Planning Officer will approve or disapprove the plan within ten days after the submittal of a complete plan, which must include written permission from every off-premises property owner where each Sign will be erected. The plan must specify the number, dimensions, content and placement of all such Signs proposed for the event, as well as any lighting and descriptions of materials to be used. All Special Event Signs must be removed within 24 hours of the completion of the event.

g. Other Signs

Any Sign not defined in this section must be permitted only at the discretion of the Planning and Zoning Commission.

10. Applications. Applications for a Sign Permit shall be accompanied by an administrative fee and shall include the following information:

- a. Name and address of the sign owner or sign lessee (if any).
- b. Name and address of owner (or agent if applicable) of building or premises to which sign refers.
- c. A drawing showing the design, dimensions, lighting and construction of the proposed Sign or Signs, a description of materials to be used, along with a site plan and/or building elevation drawing showing the location of the placement of the Sign.
- d. Signature of applicant for the Sign Permit, and
- e. Signature and written permission of landowner for Off-premises Signs.

11. Exempt Signs. The following types of Signs do not require a Sign Permit provided that the Sign meets all of the location and design standards of this section.

- a. Business Directory
- b. Pennant
- c. Construction Signs
- d. Traffic Direction Signs

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- e. Real Estate Signs
  - f. Recreational Trail Signs
  - g. Message Boards
  - h. Wayfinding Signs
  - i. Umbrellas
  - j. Residential Signs
  - k. Street Addresses
  - l. Home Security Sign
  - m. On-premises Real Estate Signs
  - n. "Open" or "Closed" Signs
  - o. Vacancy Sign
  - p. National, state or locally recognized commemorative symbols, flags, plaques, or historical markers.
  - q. Signs or official notices required by law or signs of a duly constituted governmental body or agency.
  - r. Window Display
  - s. Signs placed by a public utility for the health, safety, welfare, or convenience of the public.
  - t. Signs required to be posted pursuant to the New Mexico Ski Safety Act.
  - u. Menu Boards
  - v. Motorized Vehicle Sign
  - w. On-Premises Subdivision Signs
  - x. Gasoline Retailer Sign
  - y. Political Campaign Sign
12. Prohibited Signs. The following types of Signs or sign fixtures shall be prohibited within the Village:
- a. Off-Premises Signs unless permitted with an application for a Special Event or a Real Estate Open House.

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- b. Spotlights which do not illuminate a Sign or which do not illuminate a building or parking lot for security purposes.
- c. Signs which are animated, flash, emit noise or move in any manner.
- d. Signs attached to, or painted on any tree, rock or other natural object, utility pole, standpipe, fire escape or any other man-made object not intended to support a Sign.
- e. Sign structures containing three or more Sign Faces.
- f. Signs which are or may become a physical hazard to the public or interfere with pedestrian traffic or the free ingress and egress from a door, window, fire escape or other required exit or entrance to a building or facility.
- g. Signs which are mounted or transported on a trailer or similar portable structure with or without wheels.
- h. A Pennant that draws attention to, advertises, or promotes merchandise, services or activities.
- i. Signs that are lit internally.
- j. Neon Signs, not including an "Open" or "Closed" Sign or Vacancy Sign or when included as a Window Display.

13. Design Standards Applicable to All Signs. The following standards apply to all Signs.

- a. Signs may be illuminated consistent with the exterior lighting regulations of the Village or any other Village ordinance
- b. Any illumination by spotlight must illuminate the Sign only.
- c. All external illumination must be mounted at the top of the Sign and should be designed to prevent the light source from casting illumination into the sky or onto other properties.
- d. No Sign shall be located above the height of the lowest level of the roof eave on the side of the building to which it is attached.
- e. No Sign may be placed within a road or dedicated public right-of-way unless approved by the Village.
- f. All Signs shall be repaired and maintained in an appropriate and safe manner. Any Sign deemed to be in disrepair by the Planning Officer shall be considered to be in violation of this section.

14. Non-Conforming Sign. Any Non-conforming Permanent Sign existing prior to the effective date of this Ordinance shall be allowed to remain under this ordinance, except that any renovation or change in size, area, lighting, materials, or locations require a Permit and that the Sign be brought into compliance with the requirements of this section.

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All Signs must be removed from the premises within 30 days after the permanent closure of the business it advertises.

15. Appeals and Variances.

- a. An applicant for a Sign Permit may appeal the final decision of the Planning Officer or designee to the Planning and Zoning Commission.
- b. An applicant for a Sign Permit may apply to the Planning and Zoning Commission for a variance to the standards and provisions of these sign regulations. The Planning and Zoning Commission, in hearing and deciding upon any application for a variance from the provisions of these sign regulations, may properly consider a balance between the following:
  - 1) That a literal application of the provisions of these sign regulations would cause undue financial hardship to the applicant because of conditions that are unique to the building, structure, premises, or lot, upon which the proposed signage is to be situated;
  - 2) That the granting of applicant's request for a variance from the provisions of these sign regulations would not be materially detrimental to the public, or to property owners, or existing businesses, in the immediate vicinity of the proposed signage;
  - 3) That the granting of applicant's request for a variance from the provisions of these sign regulations would not be contradictory to the intent, general purposes and objectives of these sign regulations, any other sections of this title, nor any other ordinance of the town of Taos;
  - 4) That, in the case of multi-tenant centers, the requested variance nevertheless substantially meets the goals of the town of Taos vision 2020 master plan or its successor master plan, comprehensive plan or similar document approved by the Taos town council;
  - 5) That, in the case of multi-tenant centers, the requested variance assures that signage visible from public rights of way does not exceed the design and dimension requirements set forth elsewhere in these sign regulations;
  - 6) No variance from the provisions of these sign regulations may allow more than a twenty percent (20%) increase in the size, sign area, height or other sign dimension set forth in these sign regulations.

**7. Fence Permits**

1. Intent and purpose. The fence permit is required by any owner or owner's authorization representative prior to the initiation of any signage. No person shall erect a fence or a gate within the Village without obtaining a fence or gate permit and complying with these regulations.
2. Planning Officer's Authority. In issuing a fence permit, the Planning Officer shall have the authority, as an administrative act, subject to the provisions of this section,

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to require conditions of development in addition to those required by this title where it is determined that such conditions are necessary to further the objectives of the general plan and are in harmony with the intent, purpose and spirit of this Ordinance and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village.

3. Application. Application shall be made for a fence permit together with the requisite fees therefore as well as the following information:
  - a. Name and address of the property owner
  - b. A drawing showing the design, dimensions and location of the proposed fence or gate.
  - c. Signature of applicant
4. Time Limit: The Planning Officer may approve or disapprove the Fence Permit within ten days following the submission of the required documentation. The decision shall set forth the findings and any additional documentation needed, in writing. The Planning Officer's findings shall be filed with the Planning Commission. Copies shall be mailed to the applicant.
5. Existing Structures. Any existing fence or gate with the exception of a barbed wire or electric fence on a residential lot, existing prior to the effective date of this Section, shall be allowed to remain under this Ordinance except that, if the fence, gate or a part thereof shall fall down or become in a state of disrepair, then the property owner shall be required to obtain a permit and bring the fence or gate into compliance with this Section.
6. Construction. Fences may be either solid (such as a cinder block wall) or open (such as a Cyclone fence) and shall not exceed six feet in height with the following exceptions:
  - a. On a residential lot, a solid fence may not exceed three feet in height and an open fence may not exceed four feet in height in the front yard. Said fence may not be located within twenty feet of a public right-of-way.
  - b. Side and rear yard fences may not be located within twenty feet of a public right-of-way. A side or rear solid fence may not exceed three feet in height and a side or rear open fence may not exceed six feet in height.
7. Gates. Gates may not be constructed so as to obstruct the public right-of-way in any manner and may not exceed the height of the fence.
8. Barbed Wire and Electric Fences. Barbed wire and electric fences are prohibited except as follows:
  - a. Barbed Wire fences in the farming and recreation zone as long as such fence is set back twenty feet from any public right-of-way.

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- b. In a commercial zone as a conditional use for security or safety uses where barbed wire is added to fences above six feet.
9. Fence Orientation. The finished side of fences shall face the public right-of-way and/or adjacent property.
10. Exemptions. Exempt from these regulations are the following:
  - a. Temporary fencing used during a permitted building construction.
  - b. Temporary fencing used to direct skiers on snow trails as long as the fencing material is highly visible.
  - c. Temporary fencing approved for use for a special event permitted by the Village.

## 8. Lighting Permit

1. Intent and purpose. The lighting permit is required by any owner or owner's authorization representative prior to the initiation of any exterior lighting activities. Recognizing the value of the nighttime sky to residents and to visitors, the purpose of this section is to provide regulations and standards for outdoor lighting, which will reduce light pollution, reduce and prevent glare and light trespass and conserve energy. Fixtures existing prior to the effective date of this ordinance must now come into compliance with the provisions of this ordinance.
2. Planning Officer's Authority. In issuing a lighting permit, the Planning Officer shall have the authority, as an administrative act, subject to the provisions of this section, to require conditions of development in addition to those required by this Ordinance where it is determined that such conditions are necessary to further the objectives of the general plan and are in harmony with the intent, purpose and spirit of this Ordinance and/or where such additional requirements are deemed essential to protect the public safety and general welfare of the Village.
3. Application. Application shall be made for a lighting permit as described herein, together with the requisite fee therefore. Applications shall be accompanied by the following:
  - a. Name and address of the property owner or agent;
  - b. A drawing showing the design and dimensions of the proposed new or modified fixture, as well as a description of each fixture, lamp, support and shield, which may include but is not limited to manufacturer's catalog cuts and drawings and photo metrics;
  - c. A site plan indicating the proposed location of the outdoor lighting fixture; and
  - d. Signature of applicant.

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4. Fees: Owner fee or owner's authorized representative shall pay the lighting permit at the time of filing said application.
5. Time Limit: The Planning Officer may approve or disapprove the Application for lighting permit within ten days following the submission of the required documentation. The decision shall set forth the findings and any additional documentation needed, in writing. The Planning Officer's findings shall be filed with the Planning Commission. Copies shall be mailed to the applicant.
6. Definitions. The following definitions apply to this section:
  - a. Fully Shielded Lighting Fixture is a fixture constructed or shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected at least fifteen degrees below the horizontal plane through the fixture's lowest light emitting part. A fixture mounted under a canopy or other structure such that the surrounding structure effectively shields the light and prevents glare in the same manner is also considered fully shielded for the purpose of this ordinance.
  - b. Glare is the sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility.
  - c. Lamp is the portion of a lighting fixture that produces light.
  - d. Light Trespass is any form of artificial illumination emanating from a light fixture or illuminated sign that shines beyond the property on which the fixture is installed.
  - e. Lighting Fixture is a complete lighting unit including the lamps, together with the parts required to distribute the light, to position and protect the lamps, to connect the lamps to the power supply and includes the structure used to place the fixture in the desired location.
  - f. Sensor Device is a device that will sense motion or heat electronically and switch on security lighting for a brief duration.
  - g. Outdoor Light Fixtures are outdoor electrically powered illuminating devices, either permanently installed or portable, which are used for illumination of buildings and structures, recreational areas, parking lots, landscape, architecture, signs, and streets. Exterior lighting fixtures do not include lights on autos, trucks, snow grooming and snowmaking vehicles, except that such lights may not be used for exterior lighting fixture purposes.
  - h. Partially shielded fixture is a fixture shielded in such a manner that no more than 10% of the light emitted directly from the lamp or indirectly from the fixture is projected above the horizontal as certified by the manufacturer.
  - i. Seasonal lighting is exterior lighting in place from November 15 through April 15, with individual lamps no larger than 25 watt rating each in strings of

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twenty-five such lamps or less, or strings of any length when lamps are no larger than 7.5 watt rating each.

j. Spotlight or Floodlight is a lighting fixture that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

k. Watt is the unit used to measure the electric power consumption of a lamp.

7. General Provisions. The following provisions shall apply to all outdoor lighting fixtures in the Village

a. Exterior lighting fixtures shall be shielded in such a manner that light rays emitted by the fixture, whether directly from the lamp or indirectly from the fixture, are restricted to regions below an angle fifteen degrees beneath the horizontal plane running through the lowest point on the fixture where light is emitted. No significant intensity of light shall be emitted from the fixture horizontally or above the horizon.

b. For recreational facilities, partially shielded fixtures are permitted; however such lighting shall be turned off no later than two hours after use of the facility is finished.

c. Exterior lighting in commercial/business, special use, agriculture and adult entertainment zones shall not be placed or erected at a height greater than thirty feet above grade level or porch or deck height.

d. Exterior lighting in residential zones shall not be placed or erected at a height greater than ten feet above grade level or porch or deck height.

e. All outdoor lighting not necessary for public health, safety and welfare shall be activated only by sensor devices with a ten-minute time limit, or turned off between 11 p.m. and sunrise. Illuminated signs and seasonal lighting are excluded from this paragraph. Exterior lighting fixtures needed for public and employee safety must be turned off within one half hour after such use ends.

f. All exterior lighting fixtures, once approved and properly installed, shall be permanently affixed in the approved position;

g. The use of searchlights, flashing, rotating, pulsating and intermittent lights, except for emergency vehicles or safety purposes is prohibited.

h. All exterior lighting fixtures shall be designed, installed and maintained to prevent light trespass and glare.

i. Externally illuminated signs as allowed by Village ordinance shall use only fully shielded lighting fixtures mounted on the top of the sign structure.

8. A permit will not be required for the following exceptions:

9. Street lighting, and traffic control signals and devices erected by the Village;

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- a. Temporary emergency lighting;
  - b. Seasonal decorations; however, spotlights and floodlights shall not be utilized in such decorations; and
  - c. Covered or completely shielded porch and walkway lighting for single and multi-family homes provided that each fixture uses a lamp of 100 watts or less.
10. If the Planning Officer determines that existing fixtures have not been brought into conformance with the provisions of this ordinance, the fixture will be considered in violation of this ordinance. The Planning Officer shall notify the applicant of such violation. Written notice shall be sent to the applicant by certified mail, return receipt requested. If the violation is not corrected within twenty working days following the date of such written notice, the Planning Officer is authorized to cause removal of such fixture in violation of the Ordinance, and any incidental costs shall be assessed to and paid by the owner of the property where the fixture is located. An application is required for any new fixture that is to be erected to correct a violation.
11. Exterior Lighting Plans for Special Events.
- a. An individual, non-profit organization, business or governmental agency desiring special or additional exterior lighting for a public or private event(s) of a one-time, periodic or multi-day nature may apply for a special permit from the Village Planning Officer by submitting a plan for the lighting no later than twenty days prior to the event. The Planning Officer will approve or disapprove the plan within ten days after the submittal, and if approved, issue a special permit.
  - b. The plan must specify and describe the number of fixtures and types of lamps, supports and shields, and the applicant must submit a site plan showing the proposed location of all fixtures. All provisions of this Ordinance must be met.
  - c. All outdoor lighting fixtures approved with this plan must be removed no later than three days following the last day of the event.
12. Variances to the Requirements for Exterior Lighting Fixtures:
- a. Definition. The Planning Officer may approve a Variance from the strict application of height, location of sign lighting and sensor timing requirements for outdoor lighting fixtures stipulated by this Ordinance in the case of the existence of physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty in providing or installing exterior lighting.
  - b. Application. Any request for a Variance shall be submitted with filing fee to the Planning Officer on a prescribed application form obtainable at the Village Office. If the Planning Officer deems it necessary he may, in his sole discretion, transmit the application and any supplementary information to the

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Commission for review and consideration at their next regularly scheduled meeting which is at least ten working days after the receipt of the request. All abutting property owners shall be notified by mail of the Commission meeting at which the Variance application will be considered. Proof of notice by mail shall consist of proof that the notice was mailed to the last known address of the property owner.

- c. Requirement. The Planning Officer or the Commission may impose any necessary requirements in approving a Variance to assure that the requested Variance:
  1. Will cause no light trespass or glare;
  2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
  3. Will not impose any significant cost burden upon the Village; and
  4. Will be in harmony with the general purpose and intent of this Ordinance and with the Comprehensive Plan.
  5. Financial hardships to the applicant will not be the determinative factor in granting variances.

#### **9. Demolition Permit.**

A Demolition Permit shall be required on any demolition of any property, structure, or accessory/auxiliary building in the Village

#### **10. Tree Cutting Permit**

A tree cutting permit shall be required for the cutting of any tree greater than twelve inches in diameter or for more than four trees less than twelve inches in diameter and greater than four inches in diameter as measured four feet from the base of the tree. For new development, tree cutting will be determined in the landscaping plan. All dead trees or downed trees do not require a permit for cutting. There will be no charge for a permit to cut a tree that is a threat to the safety of people or property, but a permit will be required.

#### **11. Special Use Permit**

1. Any request for a Special Use Permit shall be submitted with filing fee to the Planning Officer on a prescribed application form obtainable at the Village Office.
2. The Planning Officer shall transmit the application and any supplementary information to the Commission for review and consideration at their next regularly scheduled meeting that is at least twenty-one days after the application and findings are deemed complete.
3. All infrastructure improvements required by the Village Planning Department and/or Village e Public Works Department must be completed or completion plans, with

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designs and costs and the method of payment for the improvements must be in an agreement approved by the Village Council prior to Application.

4. The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning Officer, at least fifteen days prior to the date of the Commission meeting at which the application will be heard. The purpose of the sign or signs is to provide public notice of the application for special use. The applicant is responsible for removing such signs within five days after a decision is made regarding the application. Failure to properly post such signs is grounds for deferral or denial of the application.
5. Each application for a Special Use Permit shall be processed as an amendment to this Ordinance and must be accompanied by development plans.

## **SECTION 9. DESIGN STANDARDS**

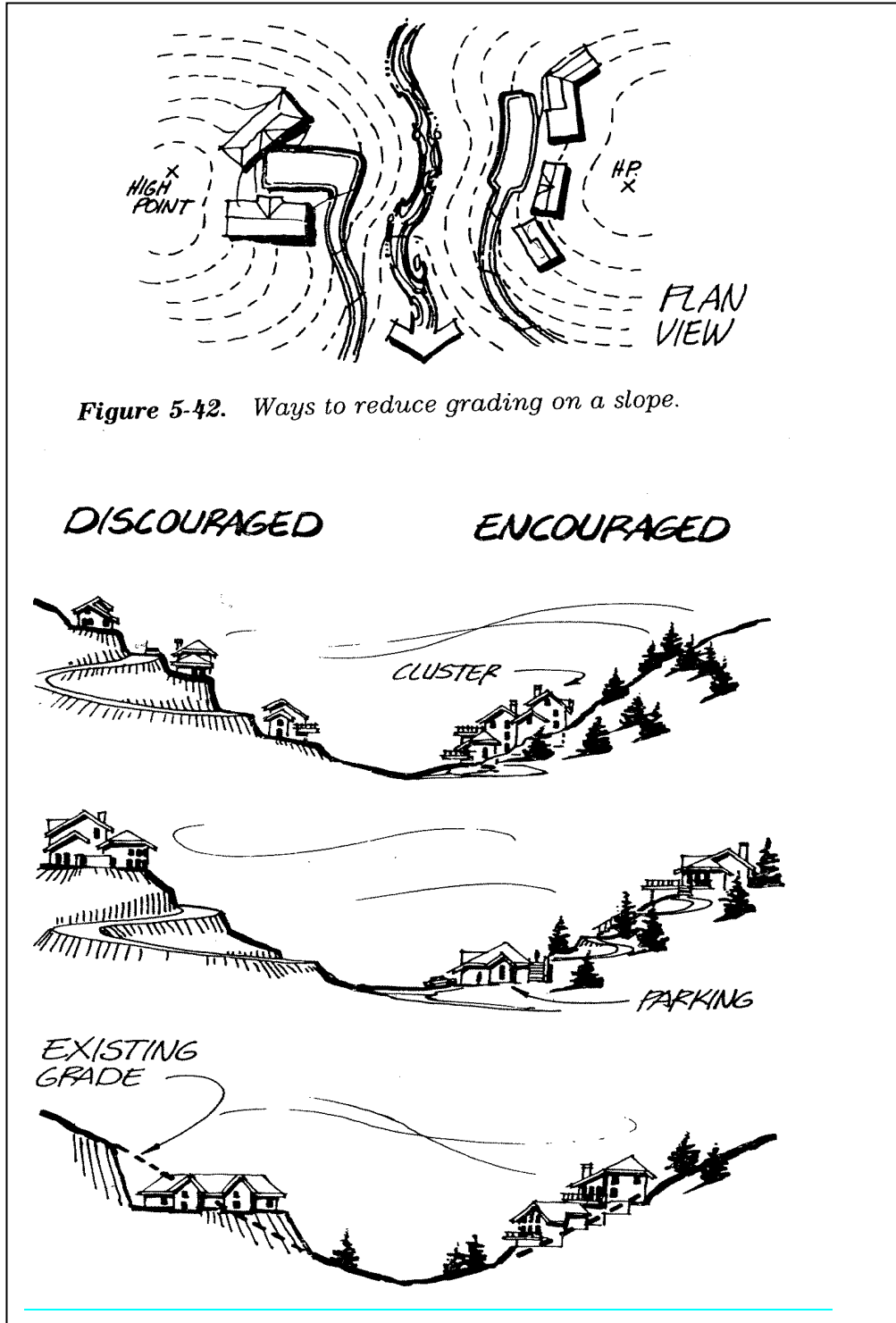
### **1. Site Design.**

Site design or site planning shall fit the buildings or other structures into the landscape in such a way that leaves the natural features of the site intact and functional, and screens undesirable uses and structures from public view with native landscaping. (Note: For avalanche design requirements see SECTION 7. GENERAL PROVISIONS.)

1. Existing natural features outside of the building footprint shall be retained and incorporated into the site design to the greatest extent possible. Projects shall be designed to avoid disturbance of rock outcrops and stream riparian zones and minimize vegetation removal and maintain the natural slope of the project site.
2. Projects shall be designed to use existing disturbed areas and revegetate the areas not covered by new development.
3. Snow shedding from roofs must not discharge onto walkways, roadways, adjacent buildings or utility installations such as propane gas lines meters, electrical service panels or in any way create a life safety hazard to vehicles or pedestrians.
4. Building pads shall be designed to fit within the setbacks in order to preserve native vegetation between building lots. The limit of site disturbance shall not encroach into any setback. There shall not be any site disturbance into any stream, riparian area or wetland.
5. Grading or earth moving to create a flat building pad on a sloped site exceeding 15% is prohibited. Buildings shall be stepped to fit with the natural terrain to reduce the need for excessive earth moving, vegetation removal, and other site disturbance.

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6. Retaining Walls. The purpose and the intent is to ensure that the application of

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retaining walls is aesthetically pleasing, limited in quantity throughout the development, and not be used to artificially create additional building area.

- a. No retaining walls shall be permitted between residential lots whose primary purpose is to create a building site that is not in conformance with the natural slope of the land.
- b. Retaining walls shall follow the natural contours of the slope, and all materials used to construct retaining walls shall consist of native stone, poured in place concrete, precast concrete block, and shall be of a color and texture that mimic the color and texture of the surrounding landscape.
- c. The cumulative height of any retaining wall built to retain a cut slope or fill slope shall not exceed ten feet in height. Individual retaining walls shall not exceed six feet in height. When slopes greater than six vertical feet must be retained, terraces shall be used to create smaller grade changes between two and four feet up to a maximum of ten cumulative feet. Areas between terraces shall be wide enough to accommodate landscape-planting pockets to soften the walls appearance. Downhill sides of retaining walls shall also be landscaped in order to help screen the structure.

## 2. Architectural Design

The purpose of establishing architectural design standards is to ensure quality development that blends with the hillside environment in the Village of Taos Ski Valley and to insure the safety of the citizens. To achieve hillside compatible development, the Village recognizes the importance of having architectural design that incorporates rooflines and other building elements, which reflect the naturally occurring topographical variations in Taos Ski Valley.

1. **General Architectural and Aesthetic Compatibility:** All proposed new developments, alterations and additions to be architecturally compatible with the general design criteria for steep slopes included as part of this Ordinance. Cuts and fills shall be kept to a minimum, and that the site, when viewed from adjacent properties, be integrated into its natural surroundings as much as possible. Buildings should be designed to complement natural landforms by setting them into the slope, or by reflecting the angles and shapes found in the natural landscape. Building massing should be broken up or stepped along a slope, to conform to the shape, aspect and scale of the natural terrain. Grading shall not compromise ridgelines and buildings shall be placed to allow unbroken natural vistas along ridges.
2. **Design Articulation.** Individual buildings should incorporate offsets or projections that relieve the visual effect of a single long wall. Architectural elements should provide visual interest and relief from flat surfaces such as, textured materials, offset planes, differentiated piers and columns, and recessed entries. Buildings should be sited so their longest frontages are not on their longest visible sides. The design should include articulated building and roof configurations; staggered roof lines; sloping roof forms with overhangs; setbacks of upper stories; variations in grade level, floor plane and wall textures.

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The building mass shall be broken into smaller forms and stepped down along the hillside or shall be otherwise configured to follow the slope of the terrain. Cantilever and or platform on pier construction shall be utilized to reduce grading on steep slopes greater than 25%.

Support structures (for example columns, pilings, etc.) below the lowest floor on the downhill side of the house, if and where permitted as part of the permit review process, shall not be enclosed unless height variance would not be required.

### 3. Exterior Building Elements.

The exterior design should conform to alpine rustic elegance architecture. Materials should be predominately authentic in their appearance, with natural textures and weathering. Integrating heavy timbers, natural siding materials and rock into the building design should convey the indigenous material of the surrounding mountains. If structure is less than five feet from the lot setback, the wall and the roof must be built of non-combustible materials. Exterior materials of the structure, including roofs, shall be built, painted or stained to blend with or replicate the predominant colors of the surrounding land features or vegetation (earth tones). Exposed concrete or untreated masonry shall be textured with stucco or stone to complement the natural color of the existing environment. Reflective roof materials shall not be used, unless the materials are treated to eliminate reflections. Reflective or mirrored glass shall not be used on the exterior of the structure.

1. The following building design styles are not appropriate for the Village and may not be used:
  - a. Pueblo style
  - b. Geodesic dome structures
  - c. Colonial
  - d. Period design motifs (such as castles), which have no historical connection with the area.
2. Mechanical equipment or other utility hardware on roof, ground or buildings must be screened from public view with materials harmonious with the building or be located as not to be visible from any public ways. If the design or terrain necessitates exposed equipment on the roof or other locations, these devices must be incorporated as part of the design.
3. The materials should be anodized, painted or capable of weathering so as to be non-reflective.

### 4. Roof Design.

A variety of roof slopes can be used in the design of buildings in Taos Ski Valley. Generally no roof slope should be less than 3:12 and not exceed 12:12.

1. Rooflines shall be designed so as not to create a hazard or deposit snow on parking, garbage storage areas, stairways, decks or entryways, properties, public open

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spaces, or above ground utility services. Secondary roofs, snow clips and snow guides, and snow guards should be utilized to protect these areas from roof snow shedding if necessary. Retention of snow on roofs is encouraged.

2. Because of strong sunlight in the Village, roofs should be built of or coated with materials that do not cause glare.

#### **5. Garage Doors.**

Garage doors should be placed at the side of the building wherever possible or treated as a design element and fit within the overall design of the building.

#### **6. Miscellaneous Structures.**

Miscellaneous structures (i.e., storage sheds) and street hardware (i.e., benches, planters, bike racks, ski racks) should be designed to be part of the architectural design and landscaping concepts.

#### **7. Garbage Storage and Pick-Up Areas.**

The visual impact of garbage storage and pickup areas should be minimized. The design of new structures should incorporate integral planning of garbage dumpsters or cans as well as consideration of snow accumulation in planning for access to garbage receptacles. Indoor garbage storage areas are encouraged. All garbage storage shall be in containers that are approved for preventing bear access to the stored garbage.

#### **8. Satellite Dishes.**

Satellite dishes should be the minimum size possible. Large dishes are strongly discouraged.

#### **9. Propane Tanks.**

Propane tanks shall be shielded from public view or placed underground.

### **SECTION 10. ESTABLISHMENT OF ZONES.**

#### **1. Zone Districts.**

In order to carry out the provisions of this Ordinance, the Village is hereby divided into Zone Districts as named and described in the following sections. The regulations prescribed in this ordinance shall apply within the corporate limits of the Village. The Zoning Districts are as follows:

|       |                            |
|-------|----------------------------|
| (AE)  | Adult Entertainment        |
| (A)   | Recreation and Agriculture |
| (CB)  | Commercial/Business        |
| (CVZ) | Core Village Zone          |
| (R)   | Residential                |
| (S-U) | Special Use                |

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(OZ) Overlay zone

## 2. Zoning Map.

Zoning Districts established are shown on the Village Zoning Map, which is hereby adopted and made a part of this Ordinance as if fully described herein. The Village Zoning Map (Zoning Map) shall be maintained by the Planning Officer and shall be made available for public reference.

Where, due to scale, lack of detail or illegibility of the Zoning Map, there is any uncertainty, contradiction or conflict as to the intended location of any zone boundaries shown thereon, interpretation concerning the exact location of zone boundary lines shall be determined by the Commission upon written request. Abutting zone districts along frontage of a public right-of-way shall automatically extend to the centerline if the public right-of-way is vacated.

## 3. Multiple-Zoned Lots.

Circumstances may justify the need to designate more than one zone on a single Lot. In such cases, zone boundaries within a multiple-zoned Lot shall be more fully described on the Zoning Map by showing any necessary dimensions of zones in relation to existing property lines.

## 4. Annexation.

Any request for annexation to the Village shall be filed and processed pursuant to state law concurrently with an application for zoning map amendment. The Council following a review and recommendation made by the Commission shall designate appropriate zoning.

## SECTION 11. R - RESIDENTIAL ZONE.

### 1. Intent.

The intent of this zone district is to provide for the development of single-family homes of mixed construction including conventional housing, modular or prefabricated Dwelling Units. Certain other Uses specified in this section are allowed, provided they are compatible with the development of the neighborhood. Density shall not exceed one Dwelling Unit per Lot.

### 2. Permissive Uses.

Any of the following Permissive Uses are allowed in this zone district.

One Single-Family Dwelling;

One Auxiliary Unit;

Accessory Buildings, Structures, or Uses customarily incidental to the uses allowed in this zone, provided that in total their square footage does not exceed 30% of the square foot calculations for the primary unit.

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### 3. Conditional Uses.

1. Multi-family dwellings: Apartments, Bed and Breakfasts (not larger than five guestrooms), Condominiums, and other multi-family dwellings provided that there are not more than three dwelling units on lots of adequate size to comply with the regulations and standards of the Village and other governmental agencies.
2. Public utility services.
3. Home Occupations, provided that:
  - a. No more than 25% of the square footage of the buildings on the lot shall be devoted to the home occupation; and
  - b. One related on-premises; non-illuminated sign is permitted with a sign face not exceeding two and one half square feet.
4. Modular or manufactured home
5. Temporary buildings

### 4. Supplementary Regulations.

1. Setbacks: Minimum Setback requirements are as follows:
  - a. Front yard: twenty-five feet or average of the depth of the front yard depth of the adjacent yards on either side of the dwelling, whichever is less. The front yard is the side from which primary access is provided.
  - b. Rear yard: twenty feet with the first ten feet from the building cleared to fire wise standards or fifteen feet if the fifteen feet are cleared to fire wise standards.
  - c. Side yards: twenty feet with the first ten feet from the building cleared to fire wise standards or fifteen feet if the fifteen feet are cleared to fire wise standards.
  - d. Any setback may be used by the Village for the placement of snow from the Village road adjacent to the property.
  - e. The setback from any riparian stream shall be the top of the bank or be twenty feet from the high water mark, whichever is greater.
  - f. The setback from any perennial stream shall be the top of the bank or be fifteen feet from the high water mark, whichever is greater.
  - g. The setback from a spring source shall be one hundred feet.
  - h. The setback from a wetland shall be fifteen feet.
  - i. The setback from an intermittent stream shall be ten feet.

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2. Each applicant shall submit an Application for Certificate of Compatibility, Section 8, and the required documents on said checklist, that show the building envelope and building pad for the unit, the driveway and parking area (which must be off-street), the location of any accessory units, if proposed, and any auxiliary unit, if proposed.
3. Each applicant must submit a landscape plan including the following:
  - a. Approximate number of trees that must be removed for building purposes (clear cutting of entire lot is not allowed);
  - b. Berming or revegetation of any excavation or fill on the lot, and;
  - c. Reforestation plan that complies with the Firewise Code.
4. Each applicant must submit a utilities plan as described in Section 8, Certificate of Compatibility.
5. All residential units and auxiliary units (if any), must:
  - a. Connect to the water and sanitation services currently provided by the Village of Taos Ski Valley in conformance with Village ordinances; or
  - b. If such service is not going to be available from the Village within 2 years, provide a liquid waste disposal system and water system complying with all applicable standards of the Village and other governmental agencies; and after the Village provides service, such units must be connected to the Village's system.
6. Each applicant shall provide an exterior lighting plan for the unit, any auxiliary unit and any accessory use. Exterior lighting must comply with the requirements of Section 8.
7. Signs in compliance with Section 8.
8. Off-Street Parking in Compliance with Section 21.
9. Building & Structure Height: No building or structure shall exceed 35 feet in height measured in the manner described in the definition of Building Height for Residential Zone, Section 6, number 17.

## **SECTION 12. C-B COMMERCIAL/BUSINESS ZONE.**

### **1. Intent.**

The purpose of this zone district is to provide for those commercial and business uses which serve the community on a day-to-day basis including retailing, financial, and personal services, in such a manner as to harmonize with the residential nature of the community.

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## 2. Permissive Uses.

Any of the following Permissive Uses are allowed in this zone district:

1. All Permissive Uses in the R zone;
2. Retail business establishments;
3. General and professional offices;
4. Business and personal services;
5. Banking and financial services;
6. Boarding, Rooming, Lodging House or Bed and Breakfast.
7. Galleries and Museums.
8. Ski trails and slopes, lifts, snowmaking equipment or other related functions not requiring an enclosed building

## 3. Conditional Uses.

The following uses may be allowed in this zone district only upon permit granted by the Commission in accordance with this Ordinance:

1. All uses conditional in the R zone;
2. Hotels and motels, provided there are community water and sewer systems to serve the development;
3. Eating and drinking establishments;
4. Motor vehicle services provided that any repair work shall be conducted entirely within an enclosed Building;
5. Hospitals, Clinics, and convalescent or nursing homes;
6. Clubs and places of assembly when conducted completely within enclosed Buildings;
7. Recreational facilities open to the public whether or not conducted within enclosed buildings, excepting ski-related functions Section 13.
8. Kennels, veterinary hospital, animal-grooming parlor, pet sales store or animal shelter.
9. Parking structures.
10. Temporary buildings.

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#### 4. Supplementary Regulations.

1. Applicants shall meet the supplementary regulations listed in Section 11, Supplementary Regulations, except that:
  - a. Front yard setbacks shall not be less than five (5) feet.
  - b. Landscaping shall be designed and installed in accordance with a landscape plan prepared by a qualified professional and approved by the Village; and
  - c. Exterior lighting must be designed by a qualified professional and approved by the Village.
  - d. No building or structure shall exceed 35 feet in height.

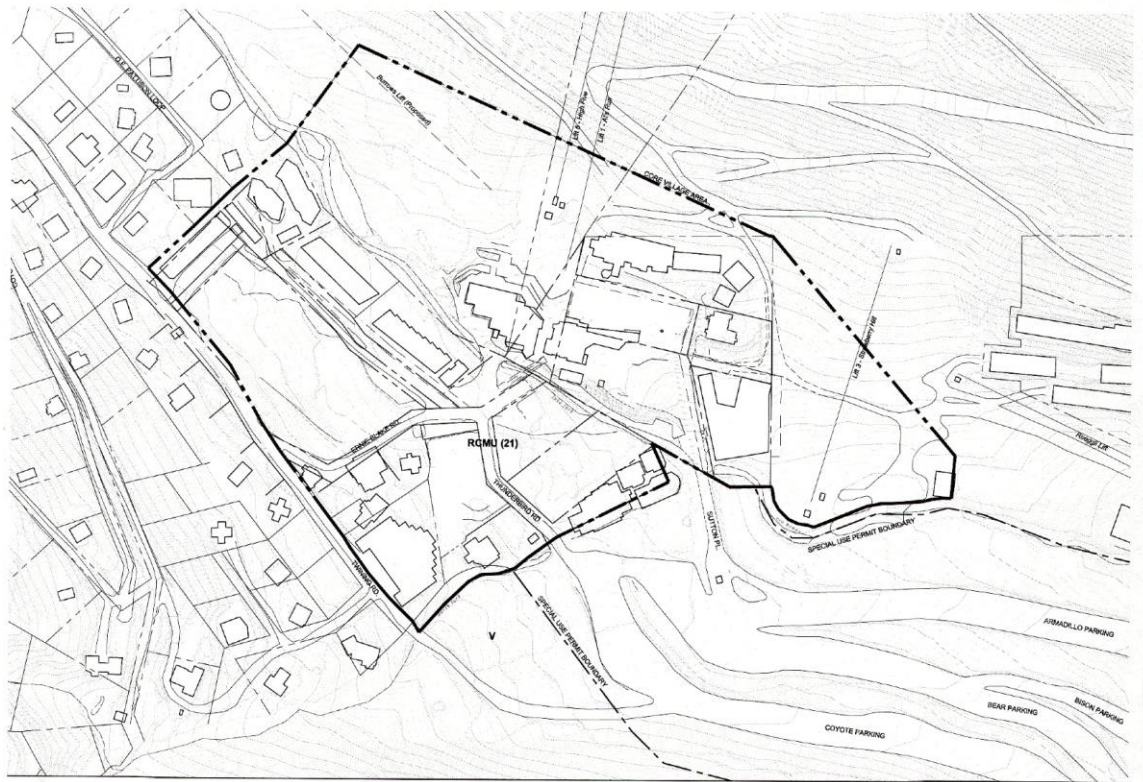
### SECTION 13. CORE VILLAGE ZONE (CVZ).

#### 1. Intent.

The purpose of the Core Village Zone is to recognize the unique importance and characteristics of properties near and adjacent to the base village of Taos Ski Valley by providing distinct incentives and regulations for development and redevelopment of those properties. The Core Village Zone, as a focal point of the community, has great potential for various uses. The following regulation applies to all property within the Core Village Zone and is defined as all property within the Core Village Zone boundary line delineated on Exhibit A.

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

**EXHIBIT A: CORE VILLAGE BOUNDARY AREA**  
DESIGN WORKSHOP  
OCTOBER 2

These Core Village Zone (CVZ) Regulations are adopted for the purpose of facilitating the redevelopment and revitalization of the CVZ area, stimulating a consistent and sustainable mixture of commercial, residential and recreational land uses, promoting a reasonable bed base of residential and lodging units to support the resort, fostering a vibrant pedestrian activity zone, and providing a base village environment that supports resort operations and provides a positive resident and visitor experience in multiple seasons.

These CVZ Regulations establish the permitted land uses within the Core Village, establish flexible zoning and development standards appropriate for the CVZ, specify permitting processes and procedures tailored to the special needs of the CVZ, and foster a regulatory climate that will encourage the redevelopment and revitalization of this critical area within the Village of Taos Ski Valley.

The additional purposes of this zoning are to provide for:

1. The enhancement of the character of the CVZ area through best practice town-center design and planning principles.
2. The promotion of uses which attract/serve both tourists and the local community.
3. The encouragement of high quality and sustainable development.

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4. The promotion of more intense, compact and integrated development.
5. The timely and orderly development of the CVZ's proposed system of roads, utilities, drainage, and trails/paths.
6. Parking flexibility so that all parking does not have to be provided on site.
7. The encouragement of pedestrian walkways and vehicle-free areas.
8. Path/trail connectivity to the proposed river walk and nearby trails and open space.
9. A flexible approach, through the use of performance standards, to implement the goals of the Village of Taos Ski Valley's plan.
10. The preservation and enhancement of the unique visual characteristics of the Village of Taos Ski Valley.

Where these CVZ Regulations expressly address a specific development objective, standard, procedure, or otherwise contradict an existing ordinance, the provisions of these regulations shall supersede the provisions of the Village's Zoning Regulations, Subdivision Regulations, or other applicable ordinance. Where these provisions do not expressly address a specific development objective, standard or procedure, then the Village's Zoning Regulations and Subdivision Regulations, as then in effect, shall apply unless such application contradicts the intent of this ordinance. These CVZ Regulations constitute a variance to the Comprehensive Subdivision Regulations as adopted by the Village of Taos Ski Valley pursuant to Section 5 thereof.

## 2. Application.

The Core Village Zone (CVZ) is applied to all privately and publicly owned parcels of land located within the CVZ (see *Exhibit A* for boundaries):

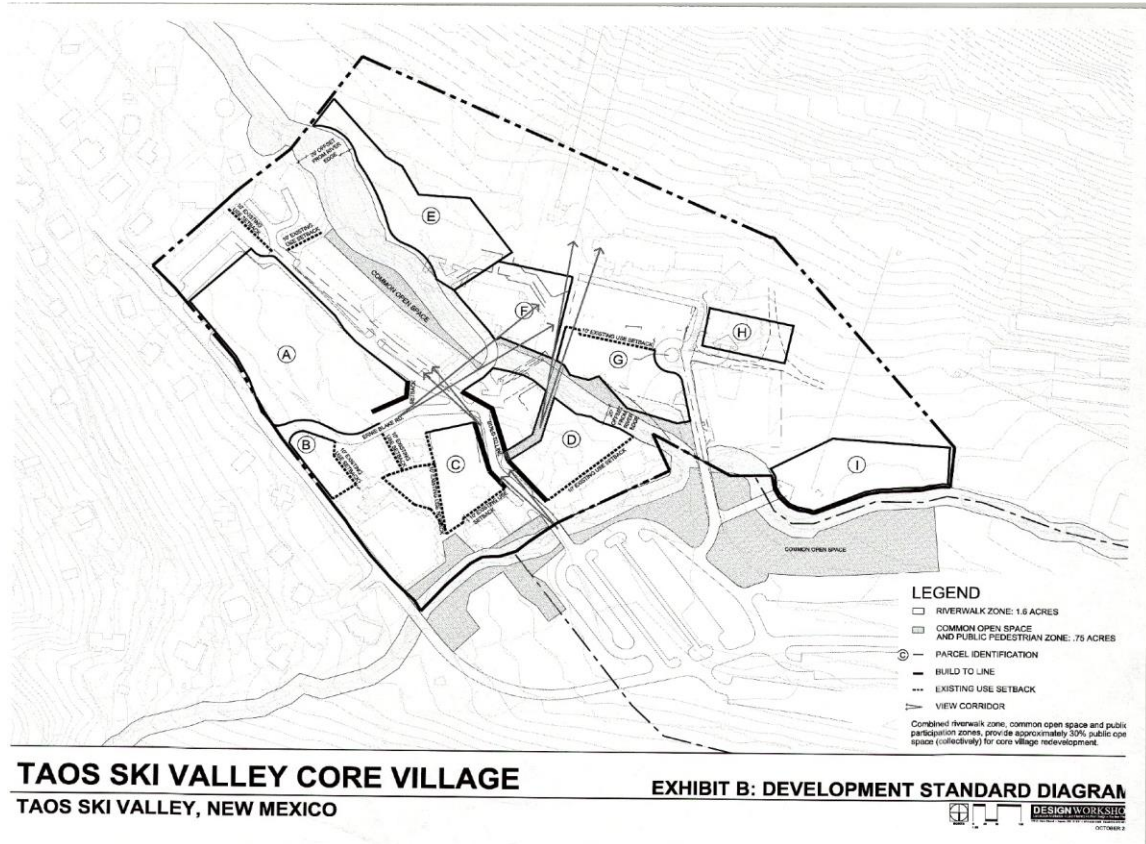
1. The requirements of this section shall apply to any new development or redevelopment proposals located within the boundaries of the CVZ.
2. Any renovation or remodeling of existing structures shall result in the application of the standards and requirements of this section if such renovation or remodeling involves any of the following:
  - a. The requirement of a site plan review.
  - b. An expansion of space devoted to principle uses within a property.
  - c. Replacement of an existing structure.
3. Any change in use of all or any portion of the structure or site to a more intensified use shall result in the application of the standards and requirements of this section.

## 3. Core Village Zone Development Standards Diagram.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

The Core Village Zone Development Standards Diagram (*Exhibit B*) establishes the maximum building area including street edge build-to lines, setback lines, river walk and public pedestrian zoned open space and related controls governing the overall massing of building structures within the CVZ area.



#### 4. Impact Fees

It should be noted that Core Village Zone land uses replace and redevelop significant residential, lodging, commercial, and ancillary uses that previously existed within the Core Village Zone area. To the extent any Development Impact Fees are imposed on projects in the CVZ area, such fees will be based on “net new development” with a credit for prior or existing uses being replaced or supplemented so long as and only if the prior or existing use was assessed and paid all impact fees in accordance with the impact fee schedule in the Village of Taos Ski Valley Zoning Ordinance.

#### 5. Permissive Uses.

The following Permissive Uses are allowed in this zone district:

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

1. Ski trails and slopes, lifts, snowmaking equipment or other related functions not requiring an enclosed building.

## **6. Conditional Uses.**

The following are permitted uses with approval of conditional use:

1. Residential (single-family and multi-family)
2. Hotel
3. Lodge
4. Shared ownership/timeshare
5. Bed and breakfast
6. Commercial
7. Restaurant
8. Bar
9. Retail
10. Other Commercial Services
11. Skier services
12. Office
13. Amenity Facilities
14. Parking
15. Recreational Uses
16. Accessory uses/structures
17. Maintenance/service/utility facilities
18. Clubs and places of assembly when conducted completely within enclosed Buildings.
19. Mixed Use structures with any combination of the above.

Short-term rental of all single-family, multi-family, hotel and lodge units is specifically permitted.

## **7. Permitted Uses That Require a Special Event Permit.**

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.



The following are permitted uses with approval of a special event permit by the Village of Taos Ski Valley Special Events Coordinator:

Resort special events that include:

- a. Music festivals
- b. Art festivals
- c. Ice festivals
- d. Traveling Circuses
- e. Holiday events
- f. Athletic events
- g. Community celebrations

Other similar events of limited duration that involve placement of the following:

1. Tents
2. Stages
3. Activity Booths
4. Banners/Signs
5. Associated Temporary Facilities

These events and their associated temporary facilities shall be permitted with approval of a special event permit on all parcels/lands within the Core Village Zone and may also be permitted with approval of a special event permit in Village road rights-of-way with the administrative approval of the Special Event Coordinator

#### **8. Land Use and Density Transfer.**

Residential, office and commercial land use densities may be permitted to be transferred between parcels or projects within the Core Village Zone utilizing their respective EQR ratios as the transfer ratio between respective land uses. Density transfers may occur provided that a staff review establishes that the following criteria are met:

1. The aggregate number of transfers does not increase the EQR density in the receiving parcel or project by more than 20%;
2. The land use is consistent with the land uses permitted as previously listed in the conditional uses section;
3. The transfer does not increase the overall Core Village Zone-wide maximum residential or commercial densities within parcels owned by an individual owner or agreed to by other owners.

Density transfers shall be reviewed and approved by the Village of Taos Ski Valley Planning Officer prior to or concurrent with the preliminary plat or land use development review for the Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

parcel initiating or receiving the transfer. The Village of Taos Ski Valley shall administratively account for all density transfers.

### **9. Density Flexibility.**

The residential and commercial unit densities approved via development application for each parcel within the CVZ boundary shall be based on the Equivalent Residential Unit (EQR) as used by the Village of Taos Ski Valley. This ordinance contemplates that a mixture of residential unit types/sizes and/or lodging/hotel rooms will be developed within the CVZ boundary. Accordingly, the land use type, unit type or room densities on each parcel or within each project in the CVZ area may be adjusted either upwards or downwards based on the EQR ratios contained in the Village of Taos Ski Valley EQR schedule.

### **10. Supplementary Regulations and Development Requirements.**

The performance standards described in this section are designed to provide a desired result or performance through the application of a variety of measures. Rather than specifying exactly what must be done in each situation, these performance standards describe a range of measures from which to choose to achieve the desired result. These performance standards allow for maximum flexibility in the design, review, and approval of actions within the CVZ that are governed by these regulations.

The following performance standards are intended to encourage mixed-use development/redevelopment and employ flexible zoning principles that guide density, massing, and setbacks to encourage a combination of residential, hotel, commercial, and/or office use to help the Core Village Zone ensure a socially vibrant and economically sustainable environment. These standards should also encourage pedestrian-level commercial and amenity uses that animate the pedestrian experience within this zone, integrate building massing along pedestrian-friendly streets, plazas, walkways, and the river walk and create places and spaces in which residents and resort guests enjoy spending time.

1. Core Village Zone open space is intended to be consolidated into the River Walk and Public Pedestrian Open Space Zone as shown on the Development Standards Diagram – Exhibit B. This open space provides considerable public open space within the CVZ Area and is focused on providing consolidated useable open space, pedestrian ways and river walk corridors that connect and serve all parcels in the CVZ in lieu of smaller disconnected open space on each redevelopment parcel. Accordingly, CVZ parcels shall be exempt from individual lot coverage or “percentage” open space requirements in the Zoning Code and instead shall be judged by the quality of the pedestrian spaces they create and their connectivity to and creation of the CVZ pedestrian plaza, walkways, river walk greenway and other pedestrian corridors as shown on Exhibit B.
2. Building height of principal structures shall not exceed forty-eight feet to the eave line of the roof edge with the reference datum being the finished pedestrian surface within five feet beyond each corner of the structure. When the development provides a pedestrian plaza or walkway (especially over a parking structure), this eave line height shall be measured from the top of the plaza or walkway elevation. Stepped building masses should be measured individually (i.e. by building segment rather than just overall height). Tower elements and secondary building features shall be non-habitable and limited to not more than 15% of any building façade. Tower

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

elements and secondary building features may exceed this forty-eight foot eave limit to a maximum height of sixty feet at the eave line. Roof massing above the eave line shall not exceed a pitch of 12:12. Metal roofs must have a finish reflectance rating of less than 20 units of gloss reflectance at an 85-degree slope. (See 17-B figure 2)

3. Building mass/scale of residential and commercial buildings should be reflected in segmented sections of façades that suggest smaller scale structures (even though actual structures behind façades may be larger and inter-connected) indicative of traditional European Villages and their structures. Non-residential/commercial buildings, like parking structures, should be underground where possible and employ appropriate architectural treatments on any exposed parking structure elevations to mitigate mass/scale and blend with the character of surrounding buildings.
4. The Village may approve comprehensive private design guidelines for specific parcels in the CVZ area; and if so, such guidelines shall supersede the design standards in Section 9 of the Zoning Regulations as adopted by the Village of Taos Ski Valley.
5. The minimum lot size (Section 2-4) and clustering requirements (Section 2-5) of the Comprehensive Subdivision Regulations as adopted by the Village of Taos Ski Valley, shall not apply in the CVZ area.
6. Ten-foot setbacks shall be maintained between any redevelopment and existing residential or commercial uses in the CVZ area. As long as required fire separation standards are met (per the IBC), zero lot lines (no setbacks) shall be permitted between compatible buildings/uses; buildings, roadways, pedestrian ways, and open space shall be included within approved parcel conceptual plans or master plans. This will allow for integrated structures that create the visual enclosure around the Core Village Zone pedestrian spaces.
7. Building envelope and building pad designations shall not be used in the Core Village Zone; instead, buildings are encouraged to integrate, not separate. Build-to lines (not setbacks and building envelopes) shall generally control where the main building face will be located along pedestrian-oriented streets such as Thunderbird Road, Ernie Blake Road, and Sutton Place. Eaves, balconies and other secondary protrusions may extend over these build-to lines.
8. Interim/temporary uses and structures are permitted in conjunction with an approved use permit by the village to create spaces/places until future phases can be built.
9. Shared access ways/driveways are encouraged. To further the objective of encouraging pedestrian activity and discouraging vehicular traffic, attempts shall be made to consolidate service roads and to limit interior roads to service vehicles whenever possible. Entrances to development and structures shall be oriented to pedestrian traffic, and pedestrian-focused activities shall be located along the public pedestrian easement.
10. Required parking shall be permitted on adjoining or nearby parcels, streets, parking lots, and parking structure in lieu of on-site parking. Shared parking ratios are encouraged. Credit shall be given for commercial customer parking on public streets and commercial customer and employee parking in resort parking lot areas. Shared

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

parking allowances shall be provided for mixed use projects with different parking demand timing. Tandem parking spaces are allowed for larger condo units to reduce pressure on other parking places.

11. Service functions and commercial loading areas shall be consolidated and shared whenever possible and appropriately screened from vehicular and pedestrian corridors. Loading areas may be shared between adjacent structures provided that complementary hours are established for loading and unloading. These areas shall be easily accessible, designated as a loading area, and posted with restricted hours for loading and unloading. Loading areas shall be located so as not to present a safety hazard.
12. Grading and disturbance in setbacks (except for the river corridor setback) are allowed as long as the finished condition meets the design intent and has been granted approval by the Village of Taos Ski Valley Planning Officer. Grade changes shall be addressed in an architectural fashion. Grade changes are encouraged in setback areas to optimize land utilization/development yield and to allow main pedestrian corridors to be as flat as possible.
13. Snow removal/storage shall be approached holistically where snow removal and storage areas can be shared between parcels, non-exclusive access easements can facilitate shared snow storage, and collective core snow removal/storage strategies can be employed.
14. Core Village Zone landscape standards should be less focused on separation and buffering and more focused on creating spaces and framing building elements.
15. Village trails and pathways shall be at least four feet in width (wider where more pedestrian traffic is anticipated) and shall connect with all other adjacent public pedestrian easements. Trails shall be located in a safe and logical fashion and be usable by pedestrians and bicyclists. Trails shall have a minimum finished height clearance of a least ten feet. Trails may be soft surface along the river, in park areas and open spaces, but should be hard surface where heavy pedestrian traffic or maintenance vehicle traffic is anticipated. Trails and trail facilities such as benches, picnic tables, bike racks, etc., shall be for public use and the Village shall be responsible for the installation and maintenance cost of these facilities.
16. All permanent utilities shall be located underground or inside structures, but temporary aboveground utilities may be permitted for phased development.

#### **11. Expedited Parcel Maps to Facilitate Sales Transactions and Joint Ventures.**

The Core Village Zone parcels may utilize an expedited parcel map process (i.e. an exempt subdivision) for lot consolidations/assemblages, boundary line adjustments, and bulk parcel creations that allows the creation of legal subdivided parcels with only the designation of appropriate density allocations, access and infrastructure services (no detailed site or architectural design work). These "parcels" can be configured into acceptable development parcels and be sold to third-party builders/developers who would then (i.e. subsequent to transfer) go through the full site/ architectural design, subdivision plat and/or conditional use/special use permit process. To the extent applicable, the requirements of Section 3-9 of the Comprehensive Subdivision Regulations as adopted by the Village of Taos Ski Valley, shall be Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

superseded by this provision.

## **12. Parcel Conceptual Plans.**

A parcel conceptual plan ("Parcel Conceptual Plan") for any parcel within the Core Village Zone shall be submitted for review and approval and/or amendment prior to or concurrent with the initial sketch plat, preliminary plat or site plan review of any project within the Core Village. Parcel Conceptual Plans shall show:

1. The legally described boundaries of the Parcel
2. Land uses
3. Densities
4. Development Phases or lots
5. Building Massing/Height
6. General Architectural character of the building within parcels
7. Existing and proposed streets
8. Utilities
9. Drainage (including all easements)
10. Parking/Driveways
11. Plazas
12. Pedestrian/Public Facilities
13. Proposed Amenities
14. Proposed Landscaping and Landscape buffers
15. Snow Storage
16. Any Other Feature as determined by the Planning Officer.

Once approved, a parcel Conceptual Plan shall serve as the approved Conceptual Plan for each individual parcel and shall be updated or amended as appropriate to accommodate each individual phase of development, subdivision plat or site plan within that parcel. Parcel Conceptual Plans shall be amended as needed in conjunction with any density transfers or other proposed land use development.

## **13. Subdivisions.**

Site-specific subdivisions shall be approved through Preliminary Plat and Final Plat processes as provided for in the Village Zoning Regulations or Subdivision Regulations. Conditional Use Permits and/or Townhome/Condominium Plats for commercial or multi-family uses shall be

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

approved prior to the issuance of building permits or any site disturbance. Temporary Uses, Accessory Uses, Permitted Uses, Resort Special Events, and other administrative approvals shall be initiated by submittal of an application that meets the Village's submittal requirements and must receive administrative review and approval prior to initiation of any such use. Following appropriate administrative review and approval by the Planning Officer, the following temporary uses may be installed:

1. Construction offices
2. Construction storage trailers and staging areas
3. Temporary real estate offices
4. Temporary utility facilities and structures
5. Outdoor vendors
6. Outdoor education activities and facilities
7. Model homes

Such uses shall be identified on each development application or submitted concurrently with a preliminary plat/conditional use permit where temporary uses are anticipated as part of such approval.

#### **14. Roads and Circulation.**

The design of the vehicular and pedestrian circulation system in the Core Village Zone must meet the safety and functional intent of Village regulatory standards as well as the scale, function and aesthetic. The typical cross-sections should strive to strike a balance that provides a functionally efficient, safe and connected network of vehicular and pedestrian facilities with street cross-sections that balance the need for necessary vehicular movement with the minimized speeds and traffic management controls necessary to promote a pedestrian-oriented resort community. Parking on roads shall not be permitted unless the road is specifically designed for on-road parallel parking.

#### **15. Renovations.**

Any modifications, additions, remodeling, renovations, or redevelopment of properties and land uses within the Core Village Zone shall be consistent and compatible in massing, height, architectural/site/landscape design, detailing, scale, proportion, materials, and color to the development and land uses on adjacent or nearby properties and land uses within the Core Village Zone area.

### **SECTION 14. S-U SPECIAL USE ZONE.**

#### **1. Intent.**

This zone district permits only those uses, which require special consideration because of their unusual nature, frequency of occurrence, effect on surrounding property, or other similar reason. The boundaries of this zone district shall be determined on a case-by-case basis following amendment procedures provided in this Ordinance. Supplementary regulations shall be the

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

same as in the C-B Zone. The Council upon recommendation by the Commission may impose special conditions. The Council may not grant a zone change for Special Use unless satisfactory provisions have been made:

1. To assure that compatibility of property Uses shall be maintained in the general area
2. To preserve the integrity and character of the land on which the Special Use will be located, and the utility and value of property in the Special Use Zone and in adjacent zones
3. To assure that the Special Use will not become detrimental to the public health, safety, or general welfare of the Village.

## 2. Removal of Zone.

In the event that a Use authorized as a Special Use Zone is permanently discontinued, the Special Use Zone may be canceled and removed from the Taos Ski Valley Zoning Map under the provisions for an amendment to this Ordinance. Those areas delineated by such discontinued Special Use Zone shall be rezoned to the prevailing surrounding zone as determined by the Council following recommendation

## 3. Special Uses.

A Special Use Zone may be authorized and established only for Uses designated by the Council, including the following

1. Government facilities for general public use.
2. Shopping Center, subject to the following requirements for a development plan;
  - a. All outside storage and refuse collections areas shall be screened from public view to the greatest extent possible;
  - b. Pedestrian access and skier access (where applicable) shall be provided as approved by the Village;
  - c. A proposed shopping center shall be in conformance with the Comprehensive Plan;
  - d. If an approved shopping center development plan becomes void, the prior zoning district category shall be reinstated and a new Special Use Zone application must be submitted for Shopping Center Approval.
  - e. An approved Shopping Center development plan may be voided for either of the following reasons:
    1. The developer or other evidence indicates that significant changes have been made to the approved plan; or
    2. A building permit is not obtained within one year following the date of approval of the Shopping Center development plan.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

3. Travel trailer or recreational vehicle Park, subject to the following regulations:
  - a. The park shall not be larger than 2 acres in size, with designated camp sites;
  - b. The maximum density within the park shall be 24 camp sites per acre;
  - c. A suitable buffer shall be established and maintained around the site; and
  - d. The park must provide water and sanitation facilities
  - e. Solid waste disposal facilities must be provided and screened.

#### **4. Supplementary Conditions.**

All units and auxiliary units (if any) must connect to the water and sanitation services currently provided by the Village of Taos Ski Valley in conformance with Village ordinances.

### **SECTION 15. ADULT ENTERTAINMENT.**

#### **1. Intent.**

This zone allows, on a conditional basis, entertainment activities that require special consideration because of their effect on surrounding property and the general health, safety and welfare of the community.

#### **2. Conditional Uses.**

1. All uses permissive in the C-B zone;
2. Adult Amusement Establishment;
3. Adult Bookstore;
4. Adult Photo Studio;
5. Adult Theater;
6. Adult Video Store.

#### **3. Supplementary Conditions.**

Conditions that must be met for conditional approval for an adult amusement establishment, adult bookstore, adult photo studio, adult theater or adult video store:

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.



1. Use may not be located closer than 500 feet from any residential use, no matter which zone the residential use may be located in, or from any church or pre-elementary, elementary or secondary school; and
2. Applicant must meet supplementary regulations given in SECTION 12.

## **SECTION 16. FARMING AND RECREATION.**

### **1. Intent.**

This zone permits multiple uses of the land for a variety of purposes.

### **2. Permissive Uses.**

1. All uses permissive in the R zone;
2. Public recreational purposes for which a fee is not charged, including, but not limited to, hiking, fishing, hunting, camping, equestrian activities and off-road vehicle activities.
3. Farming uses.

### **3. Conditional Uses.**

1. Commercial recreational purposes for which a participation fee or a spectator fee is charged.
2. Commercial farming uses.
3. Commercial timber harvesting or logging operation.
4. Temporary Buildings.

### **4. Supplementary Regulations.**

1. All commercial uses must comply with the supplementary regulations of Section 12.
2. The construction of any building, residence or otherwise must comply with the Supplementary Regulations of SECTION 12.

## **SECTION 17. OVERLAY ZONES**

### **1. Intent; Permissive Use.**

The intent of overlay zones is to provide for areas within the Village for the development of multiple uses on the same parcel or lot. All overlay zones are conditional uses in all zones within the Village of Taos Ski Valley.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

## 2. Mobile Home Parks and Mobile Home Subdivisions

1. Mobile home parks and subdivision overlays are only conditional in a Mobile Home Overlay Zone to the Farming and Recreational Zone.
2. Supplementary Regulations.
  - a. Size. A Mobile Home Park or a Mobile Home Subdivision must have a minimal size of four acres.
  - b. Density. No more than four mobile homes may be located on one acre.
  - c. Setback Requirements. For each mobile home unit, the lot on which it sits must be on an area not less than sixty feet in width and sixty feet in length and the distance between any mobile home unit and the outer boundary of the Overlay Zone shall be a minimum of twenty-five feet. Spacing between each unit shall not be less than twenty-five feet, whether the mobile homes are placed side-by-side or end-to-end.
  - d. Streets and Roads. All private roads within a Mobile Home Park must be at least twenty-four feet in width and have a snow storage easement of at least twenty feet on each road.
  - e. Off-Street Parking. There must be at least two off-street parking places for each mobile home unit.
  - f. Utilities/Services. All Mobile Home Parks or Subdivisions must be connected to and served by the Village's water and sewer system.

## 3. Residential-Commercial Overlay Zone.

1. A combination of residential and commercial uses is an overlay in any zone.
2. The supplementary requirements for a residential-commercial overlay are those requirements applicable to a commercial zone.

## 4. Environmental Protection Overlay Zone.

1. The Environmental Protection Zone provides the highest level of protection to the natural environment of the Village. Development will be approved in the environmental protection zone only in rare and unusual circumstances.

## SECTION 18. INDUSTRIAL ZONE

### 1. Intent.

This zone is intended to promote and encourage modern industrial and research development facilities and other similar uses, which can meet strict development standards, while maintaining enough flexibility to efficiently meet the needs of the developer and user. For this reason, Planned Industrial Parks are strongly encouraged in this zone. Residential uses are not permitted, including manufactured home parks, courts or subdivisions or RV parks.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

## 2. Permissive Uses.

1. Manufacturing operations within a completely enclosed building.
2. Warehouses and storage facilities.
3. Retail sales which are incidental to a manufacturing activity.
4. Governmental services, ski services, public utility services, including storage or repair services.
5. Offices for professional services and the above listed services.
6. Business and trade schools.
7. Taxi stands, bus stops, public parking lots and garages.
8. Gas service stations.
9. Outdoor sales of nursery stock.
10. New and used automobile, truck, mobile home and agricultural equipment sales.
11. Wholesale establishments.
12. Lumberyards and building supplies.
13. Vehicle repair garages or shops

## 3. Conditional Uses.

1. Adult entertainment uses where the exterior building wall of the building in which the uses exist are not within 500 feet of the exterior property lines of:
  - a. A nursery school, elementary school, secondary school or high school.
  - b. Public libraries, service clubs, neighborhood or community public recreation facilities
  - c. A church
  - d. A bar or cocktail lounge
2. Any adult entertainment use that lawfully exists is not rendered a violation of these provisions by the subsequent location of any of the uses described above.
3. Any adult entertainment shall not be located within five hundred feet of an existing residential zone.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

#### 4. Supplementary Regulations

1. Minimum Lot Area: 10,000 Sq. Ft.
2. Minimum front yard setback will be twenty feet, side and rear setbacks will be ten feet.
3. Screening: The permitted uses of the Industrial Zone shall be screened on all sides by a non-porous fence, a minimum of six feet in height. The Village Planning Officer may require appropriate screening that is different than this requirement and such decision by the Village Planning Officer will be treated as a minimum variance.
4. Signs: The provisions of section 8 shall apply.
5. Parking: The provisions of Section 21 shall apply, however the Village Planning Officer may require different parking and such decision will be treated as a minimum variance.
6. Landscaping: The provisions of Section 19 shall apply as appropriate.

### SECTION 19. WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS

#### 1. Purpose and Goals

1. The purpose of this section is to regulate the siting and construction of wireless communications towers and antennas as a Conditional Use within all zoning districts.
2. The goals of this section are to:
  - a. Protect residents and property from potential adverse impacts of towers and antennas;
  - b. Encourage the location of towers in areas with minimal impacts to residential areas;
  - c. Minimize the total number of towers throughout the community;
  - d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single use towers;
  - e. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimized;
  - f. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
  - g. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
  - h. Consider the public health and safety of communication towers;
  - i. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures;
  - j. Comply with applicable federal laws, including, but not limited to, the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA) and those regulations administered by the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC).

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

- k. Manage the number and location of towers, antennas and related infrastructure such that ongoing maintenance of these structures does not impede residents, businesses and visitors.

In furtherance of these goals, the Village shall give due consideration to the Village Master Plan, a Village Wireless Communications Master Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

## 2. Definitions

As used in this section, the following terms shall have the following meanings:

**ALTERNATIVE TOWER STRUCTURE:** Manmade trees, clock towers, bell steeples, lightpoles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**BACKHAUL NETWORK:** The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**FAA:** The Federal Aviation Administration.

**FCC:** The Federal Communications Commission.

**HEIGHT:** When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**PREEXISTING TOWERS AND PREEXISTING ANTENNAS:** Any tower or antenna for which a building permit, special use permit, or conditional use permit has been properly issued prior to the effective date hereof.

**TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, poles, and the like. The term includes the structure and any support thereto.

## 3. Applicability

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

1. New Towers and Antennas: All new towers or antennas in the Village may be approved in any zone and shall be subject to these regulations, except as provided in subsections 2, 3, and 4 below.
2. Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall be defined as a nonconforming use and shall not be required to meet the requirements of this section.
3. AM Array: For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
4. Open Space: Any tower or antenna is strictly prohibited in property designated as open space or which may be hereafter classified as an open space zone.

#### 4. General Requirements

1. Master Plan: The location of a proposed tower must conform to the goals, objectives, and other location criteria of the Village Master Plan or any applicable Master Plan adopted hereafter to the maximum extent possible.
2. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. Only one Principal and one Accessory tower shall be permitted on any single lot.
3. Lot Size: For purposes of determining whether the installation of a tower or antenna complies with development regulations, including, but not limited to, setback requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
4. Inventory of Existing Sites: Each applicant for a tower shall provide to the Planning Officer an inventory of its existing towers or sites approved for towers that are either within the jurisdiction of the Village or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Planning Officer may share such information with other applicants applying for administrative approvals or conditional use permits under this section or other organizations seeking to locate a tower within the jurisdiction of the Village, provided, however that the Planning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
5. Aesthetics: Towers and antennas shall meet the following requirements:
  - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
6. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and shall comply with the all applicable Village lighting regulations.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

7. **State or Federal Requirements:** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
8. **Building Codes; Safety Standards:** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna by the Village at the owner's expense.
9. **Tower Height and Measurement:** No tower may be greater than 75 feet tall. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Village.
10. **Nonessential Services:** Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
11. **Franchises:** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained and shall file a copy of all required franchises with the Planning Officer.
12. **Public Notice:** For purposes of this section, any conditional use request, variance request, or appeal of an administratively approved use or conditional use shall require public notice to all abutting property owners in addition to any notice otherwise required by this ordinance.
13. **Signs:** Only one sign not greater than four (4') square feet is allowed on a tower and must be no higher than 8' feet from the base of the tower. The sign must only provide the contact information for the owner of the tower or other applicable emergency information.
14. **Buildings and Support Equipment:** Buildings and support equipment associated with antennas or towers shall comply with the requirements of section g (BUILDINGS OR OTHER EQUIPMENT STORAGE).
15. **Multiple Antenna/Tower Plan:** The Village encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.
16. **Performance Bond Required:** Each applicant for a tower shall provide a performance bond in the form and amount acceptable to the Village to ensure the proper and timely removal of the tower to be constructed and for the removal of any and all facilities related to the wireless tower and antennas associated with the application.

## 5. Permitted Uses

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

1. General: The uses listed in this section are deemed to be permitted uses and shall not require a conditional use permit.
2. Permitted Uses Enumerated: The following uses are specifically permitted:
  - a. Antennas for receipt of broadcast signals for private and not commercial use on private residences so long as such antennas do not exceed ten feet (10') above the roofline and a maximum dimension of twenty four inches by twenty four inches (24" x 24").
  - b. Antennas or towers located on property owned, leased, or otherwise controlled by the Village provided a license or lease authorizing such antenna or tower has been approved by the Village.
  - c. Wireless antenna up to five feet (5') above the roofline of any building and a maximum dimension of twenty four inches by twenty four inches (24" x 24").
3. Administrative Permit: The Planning Officer may approve the installation of an antenna or antennas on an existing tower or building, provided that the addition of the antenna(s) does not increase the overall height of the tower, violate any provisions of this ordinance, or compromise the structural integrity of the tower.

## 6. Conditional Use Permit

1. General: No tower shall be located within the Village unless a conditional use permit in compliance with all applicable sections of this ordinance is obtained. The following provisions shall govern the issuance of conditional use permits for towers or antennas by the Commission:
  - a. Applications for conditional use permits under this section shall be subject to the procedures and requirements of sections 26 (CONDITIONAL USE PERMIT) of this ordinance, except as modified in this section.
  - b. In granting a conditional use permit, the Commission may impose conditions to the extent the Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
  - d. An applicant for a conditional use permit shall submit the information described in this section and a nonrefundable fee as established by the Village.
2. Towers:
  - a. Information Required: In addition to any information required for applications for conditional use permits, pursuant to section 26 of this ordinance, applicants for a conditional use permit for a tower shall submit the following information:
    - 1) A scaled site plan clearly indicating the location, type and height of the proposed tower and antennas, on-site land uses and zoning classification, adjacent land uses and zoning classification of the site and all properties within the applicable separation distances set forth in Tables 1 and/or 2 of this section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Officer to be necessary to assess compliance with this section.

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.



- 2) Legal description of the parent tract and leased parcel (if applicable).
  - 3) The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.
  - 4) The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection d.4. (GENERAL REQUIREMENTS) of this section shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - 5) A landscape plan showing specific landscape materials and which demonstrates compliance with all applicable landscaping requirements of this section.
  - 6) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - 7) A narrative description of compliance with sections d.5 through 15 (GENERAL REQUIREMENTS) of this section and f.2.d. and f.2.e. (Set-backs and Separation) of this subsection and all applicable federal, state or local laws.
  - 8) A notarized statement by the applicant as to whether construction of the tower will accommodate colocation of additional antennas for future users.
  - 9) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village.
  - 10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - 11) A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- b. Factors Considered in Granting Conditional Use Permits For Towers: In addition to any standards for consideration of conditional use permit applications the Commission shall consider the following factors in determining whether to issue a conditional use permit, although the Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Commission concludes that the goals of this section are better served thereby:
- 1) Height of the proposed tower;
  - 2) Proximity of the tower to residential structures and residential zones;
  - 3) Nature of uses on adjacent and nearby properties;
  - 4) Surrounding topography;
  - 5) Surrounding tree coverage and foliage;
  - 6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - 7) Proposed ingress and egress; and
  - 8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as

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discussed in subsection f.2.c. (AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR ALTERNATIVE TECHNOLOGY) of this section.

- c. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology: No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - 1) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - 2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - 3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - 4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - 5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
  - 6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - 7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- d. Setbacks: Towers and accessory must be set back a distance equal to at least 10 feet from any adjoining lot line, provided, however, that the Commission may reduce or increase the standard setback requirements if the goals of this section would be better served thereby.
- e. Separation: The separation requirements identified in Table 1 shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the Commission may reduce or increase the standard separation requirements if the goals of this section would be better served thereby.
  - 1) Separation From Off Site Uses/Designated Areas: Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1 of this section, except as otherwise provided in Table 1 of this section.

TABLE 1 –SEPARATION DISTANCE REQUIREMENTS

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

| Off Site Use/Designated Area  | Separation Distance   |
|---|---|
| Single-family, modular or duplex residential units.   | 100 feet or 200 percent height of tower whichever is greater              |
| Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired | 100 feet or 200 percent height of tower <sup>1</sup> whichever is greater |
| Vacant unplatted residentially zoned lands <sup>2</sup>   | 100 feet or 100 percent height of tower whichever is greater              |
| Existing multi-family residential units greater than duplex units   | 100 feet or 100 percent height of tower whichever is greater              |
| Nonresidentially zoned lands or nonresidential uses   | None; only setbacks apply   |

Notes:

1. Separation measured from base of tower to closest building setback line.
2. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

f. Separation Distances Between Towers:

- 1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.
- 2) The separation distances (listed in linear feet) shall be as shown in Table 2 of this section.

TABLE 2 - EXISTING TOWERS - TYPES

|          | Lattice | Guyed | Monopole |
|----------|---------|-------|----------|
| Lattice  | 5,000   | 5,000 | 750      |
| Guyed    | 5,000   | 5,000 | 750      |
| Monopole | 750     | 750   | 750      |

- g. Security Fencing: Towers shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Commission may waive such requirements, as it deems appropriate. Chain link fencing is prohibited.

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- h. Landscaping: The following requirements shall govern the landscaping surrounding towers; provided, however, that the Commission may waive such requirements if the goals of this section would be better served thereby:
  - 1) Tower and tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
  - 2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

## 7. Buildings or Other Equipment Storage

- 1. Antennas Mounted on Structures or Rooftops: The equipment cabinet or structure used in association with antennas shall be located on the ground or within a structure but not on the roof of the structure.
- 2. The cabinet or structure shall not contain more than five hundred (500) square feet of gross floor area or be more than ten feet (10') in height.
- 3. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- 4. Antennas Mounted on Utility Poles, Light Poles and Towers: Residential Zones: The equipment cabinet or structure used in association with antennas shall be located in the rear or side of the lot and screened from public view by a fence or hedge; Commercial or Industrial Zones: The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of six feet (6') and a planted height of at least thirty six inches (36"). The structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet (6') in height or an evergreen hedge with an ultimate height of six feet (6') and a planted height of at least thirty six inches (36").

## 8. Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of the tower and the property owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Upon removal, the site shall be re-vegetated to blend with surrounding landscape and vegetation types.

## 9. Nonconforming Uses

- 1. Preexisting Towers: Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
- 2. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Notwithstanding section h (REMOVAL OF ABANDONED ANTENNAS AND TOWERS), bona fide nonconforming towers or antennas that are damaged or

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destroyed may be rebuilt without having to first obtain a conditional use permit. The type, height, and location of the tower on site shall be of the same type, height and design as the original tower. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in section h (REMOVAL OF ABANDONED ANTENNAS AND TOWERS) of this section.

## SECTION 20. TERRAIN MANAGEMENT AND LANDSCAPING

### 1. Intent.

The Village of Taos Ski Valley finds that it is in the public interest for all developments to provide terrain management landscape improvements in order to compliment the natural landscape, retain the sense of a mountain environment, improve the general appearance of the community, enhance the aesthetic appeal of the Village and improve the quality of life for residents and guests. All development needs to emphasize the natural existing conditions with terrain management and landscaping design compatible with the existing lot and which also mitigates runoff by providing erosion protection and providing re-vegetation as well as protecting and enhancing the natural vegetation during construction.

### 2. Landscape and Terrain Management Standards.

1. Cuts and fills are to be minimized and shall not exceed 2:1 slope
2. For the preservation of existing vegetation, building setbacks are to be excluded from grading and excavation.
3. Designate areas to be re-vegetated and should contain a mixture of deciduous and evergreen trees and shrubs and comply with the Wildland Urban Interface Code.
4. Appropriate high alpine trees, shrubs, and native grasses should be utilized which will provide a xeriscaping environment to reduce water consumption.
5. Landscaping should be clustered in areas suitable for screening to provide a natural appearance that blends with the existing environment.
6. Provide screening of undesirable building elements with buffers utilizing berms, plants, and native rocks and boulders.
7. Designate vegetation preservation devices and methods and details to be used during construction.
8. Show topsoil storage area and provide protection from erosion.
9. At least 75 (seventy five) percent of the area to be landscaped shall have a ground cover of living plant material including but not limited to grass, wild flowers, and other recognized ground covering plant materials.

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

10. The remaining ground cover may be comprised of rocks, stones or other approved materials.
11. Imported mulch, topsoil, or plant material shall be free of noxious weeds and each landowner shall be responsible for maintaining a weed free lot.
12. Retaining wall systems with integrated landscape areas are encouraged to be provided to retain slopes and make up changes in grade rather than cut/fill areas for slope retention.
13. Public Snow storage areas are required adjacent to public rights of way or dedicated where appropriate location and shall be landscaped with ground cover and shrubs that can survive when the area is used for snow storage.
14. Snow storage areas and snow shedding areas may not overlap sensitive landscape or riparian areas such as those which include non-flexible deciduous trees or formal planting beds.
15. Utilitarian structures such as fuel tanks, water tanks, towers, or similar storage facilities shall be installed underground when necessary. Those not installed underground shall be painted with earth tones found in the adjacent area or shall be entirely screened with appropriate landscaping that blends with the surrounding natural environment.

### 3. Standards and specifications.

Standards and specifications shall comply with the Erosion and Sediment Guidelines as well as the Clean Water Act where applicable as determined by the Village Planning Officer. Where grading has been completed between April 15, and November 1, re-vegetation shall occur by November 1. If re-vegetation is not feasible or cannot be expected to stabilize an erodible area with assurance, during any part of the rainy season, and the unstable area exceeds 2,500 square feet, additional erosion and sediment control measures may be required as appropriate to prevent increased sediment discharge.

### 4. Timing.

No site construction is to be performed during periods of wet weather (November 1 to April 15). Failure to implement the Erosion Control Plan by the specified date may subject the contractor to a Stop Work Order by the Building Official. In the event of a Stop Work Order, either the contractor or Village forces will fit the site with the appropriate erosion control features. All costs for erosion control shall be borne by the owner, including but not limited to, the cost of the work, engineering, inspection, materials, labor and legal costs.

### 5. Waste.

No person shall permit or cause to remain in or about his premises any solid waste, motor vehicles not in operating condition, waste water or any conglomeration or residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents and which in the opinion of the Planning Officer is unsanitary or injurious to public health. The accumulation of building materials, pipes, lumber or boxes may be maintained on such premises if such accumulation is evenly piles and stacked for a reasonable length of time to be determined by the

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Planning Officer. It shall be unlawful for any person to permit, in or about his premises any solid waste to become in any way hazardous or injurious to public health or to obstruct traffic.

## **SECTION 21. OPEN SPACE**

### **1. Intent.**

The purpose of establishing open space requirements and standards for the Village is to ensure that open space is an integral part of the Village's design; to preserve prominent land forms, rock outcroppings, hydrologic features, and sensitive and unique habitat as permanent open space features to help form a community's identity; to provide areas where residents can enjoy active and passive recreation; to integrate landscaped medians, parkways, and slopes into a development project; and to ensure that parks, recreation centers, trails and greenbelts are located next to natural open space to maximize the amount of contiguous areas of open space within a community and create space transition zones between residential development and open space.

### **2. Types of Open Space.**

Open space in the Village shall consist of two general types of open space:

1. Natural Open Space, which shall be defined as undeveloped areas retained in their naturally occurring condition with regard to landform, vegetation, and hydrologic features, and which may contain dirt trails for limited public access and enjoyed; and
2. Improved Open Space, which shall be defined as any area not occupied by structures that has been improved with landscaping, recreation amenities (i.e., golf courses, private lakes), and similar features that provide opportunities for active and passive recreation, and that provide landscape improvements that enhance the overall appearance and character of the development

### **3. Use of Natural Open Space.**

Undeveloped open space shall be left in its natural state. Permitted uses include trails and the necessary improvements to establish trails and any associated viewing areas.

### **4. Use of Improved Open Space.**

1. Improved Open Space shall be provided for attached residential development and shall be used to meet general landscaping, common open space, slope treatment and parkway landscaping requirements.
2. Improved Open Space may be reserved for private use and maintained by a homeowners association, secured with documents reserving the land an open space in perpetuity.

### **5. Uses in Perpetuity of Natural Open Space.**

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Any lands dedicated for Natural Open Space purposes shall contain covenants and recordable deed restrictions burdening the subject property, in a form and content approved by the City Attorney, ensuing that:

1. The Natural Open Space area will not be subdivided in the future;
2. The use of the Natural Open Space will continue in perpetuity for the purpose specified;
3. Appropriate provisions will be made for the maintenance of the Natural Open Space that clearly define future maintenance responsibilities; and
4. Natural Open Space shall not be turned into a commercial enterprise admitting the general public at a fee, unless otherwise authorized by policy or law.

#### **6. Natural Open Space Ownership**

1. The fee title owner or easement holder of an interest in the land is dedicated for Natural Open Space purposes shall be selected by the property owner, developer, or subdivider, subject to the approval of the Planning Officer. The ownership may vest in, but not be limited to, the following:
  - a. The Village, subject to acceptance by the Village Council of a recordable interest.
  - b. Other public jurisdictions or agencies, subject to their acceptance.
  - c. Quasi-public and non-profit organizations, subject to their acceptance.
  - d. Homeowner associations or other similar organizations.
2. The Village may, in its reasonable discretion, require that the applicant establish a mechanism to fund the long-term maintenance of such Natural Open Space, which may include a cash deposit, an assessment district, trust, or other appropriate funding mechanism.

#### **7. Maintenance.**

1. The person or entity identified as having the right of ownership or proof or control over the Natural Open Space shall be responsible for its continuing upkeep and proper maintenance, unless the Village authorizes alternate maintenance strategies.

### **SECTION 22. OFF-STREET PARKING AND LOADING.**

#### **1. Off-Street Parking and Loading Requirements.**

There shall be provided on site, such off-street parking spaces as set forth in this section when any new Building or Structure is erected. Existing Buildings or Structures need supply such parking only to the extent ground space is available. Parking may be located on any portion of

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.



the parcel but shall not obstruct public right-of-way nor be located within any area, which has been designated as a snow storage easement.

Parking for uses located within the Village core area may be located in a dedicated and approved off-site location as long as adequate provisions are made for on site loading and unloading.

## 2. Required Parking Spaces.

The minimum number of parking spaces to be provided shall be as follows:

1. Clinics: one space per doctor.
2. Clubs: one space per three members plus one space for every five employees each shift.
3. Dwellings, Single-Family Residential: two spaces per dwelling unit, to a maximum of three spaces, plus one place for any auxiliary unit.
4. Dwellings, Multi-Family:
  - a. In CVZ and CB zones (as delineated on Village Zoning Map): one space per dwelling unit plus one ADA parking space for every unit which is ADA accessible and/or fitted.
  - b. Outside Village Core Area: two spaces per dwelling unit plus one ADA parking space for every dwelling unit which is ADA accessible and/or fitted.
5. Eating and drinking establishments: one space per 300 square feet of public area plus one space per every five employees per shift.
6. Hotels and Motels: one space per 300 square feet of public area plus one space per every five employees per shift.
7. Offices, retail, and service establishments: one space per 500 square feet.
8. Places of Public assembly: one space per four seats when fully occupied.
9. Shopping Center: one space per 500 square feet of public area.

## 3. Parking Design Standards.

The following standards shall be applied to Off-Street Parking areas:

1. All parking facilities must provide access to a public right-of-way;
2. All driveway entrances for non-residential shall be at least thirty feet wide and residential shall be twenty feet wide at the entrance to facilitate vehicular turning into parking area;

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3. Each parking space shall consist of an area not less than nine feet by twenty feet;
4. On any non-residential Premises, not less than one space shall be set aside for the handicapped or physically disabled in compliance with the Americans with Disabilities Act.
5. Garage space reserved for motor vehicles shall be counted as parking spaces.

#### **4. Landscaping.**

1. Parking lots shall be landscaped in keeping with the forest terrain and mountain setting of the Village. Where possible, parking should be located at the side of or behind the structure. A gravel or concrete pathway should be a part of the parking lot design, providing continuity with structures on either side or being in conformance with any pathway designed or planned by the Village.
2. Where off-street parking is provided, providing screening wherever possible should minimize the visual impact. This may be in the form of hedges, fences, earth berms, or other landscaping elements. Snow removal shall be considered in the design.
3. Parking, whether on parking pads, in carports or garages, should be located and built so as to not cause erosion problems, and should respect neighboring structures in terms of vistas and water runoff.

### **SECTION 23. DEVELOPMENT IMPACT FEES**

#### **1. Intent and Purpose.**

This Section is adopted for the purpose of promoting the health, safety and welfare of the residents of the Village of Taos Ski Valley by:

1. Implementing the Village of Taos Ski Valley Capital Improvement Plan.
2. Implementing the Village's plans for public facilities by requiring new development to pay its fair and proportionate share of the costs to the Village of Taos Ski Valley associated with providing necessary public services and public facilities to new development through the imposition of development fees and charges that will be used to finance, defray or reimburse all or a portion of the costs incurred by the Village for public facilities that serve such development.
3. Setting forth standards and procedures for assessing development impact fees (DIFs) and administering the Development Impact Fee program.

#### **2. Applicability**

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

This Section shall apply to all development for which a development impact fee has been adopted and which has not received applicable development review approvals pursuant to the Village of Taos Ski Valley Zoning Ordinance as of the adoption date of this Section. This Section shall apply to all fees and charges imposed by the Village to finance different types of capital improvements and public facilities, the need for which is created by new development. These fees are in addition to the necessary water and sewer fees to be made upon the issuance of a building permit

### **3. Needs Assessment; Notice and Hearing Required for Establishing or Increasing Development Impact Fees: DIF Report**

1. Before or in conjunction with the adoption of development impact fees, the Village shall conduct a needs assessment for public facilities, which are to be funded with the DIFs. The needs assessment shall:
  - a. Determine and distinguish between existing deficiencies and projected new development needs.
  - b. Inventory existing public facilities.
  - c. Identify the level of service standard applicable to each of the inventoried public facilities.
  - d. Identify the level of service standard applicable to each of the inventoried public facilities.

### **4. Notice and Hearing Required for Establishing or Increasing Development Impact Fees**

1. The Village shall provide at least thirty days' advance notice of intention prior to establishing or increasing any development impact fee and shall release to the public a written report including a needs assessment and all other documentation that supports the assessment of a new or increased DIF and the method by which the development impact fees are calculated (a "DIF Report").
2. The Village shall conduct a public hearing on the proposed new or increased development impact fee at any time after the expiration of the thirty day notice of intention to assess a new or increased DIF and at least fourteen days prior to the scheduled date of adoption of the new or increased DIF.
3. A development impact fee assessed pursuant to this Section shall not be effective until ninety days after its formal adoption by the Village Council.

### **5. Amendment Procedures**

Periodically, the Village Administrator or his/her designee shall report to the Village Council, prior to the Village Council's adoption of the budget and revisions for the next fiscal year, with:

1. Recommendations for amendments to this Section
2. Proposals for changes to development impact fee rates and schedules.

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

## 6. Administration of Development Impact Fee Program

1. Imposition, Calculation and Collection of Development Impact Fees.
  - a. Except as provided in this Section and any amendment to this Section, the Village shall impose development impact fees as a condition of approval of all new development projects.
  - b. The base amount of each public facility development impact fee for each type of development project shall be calculated periodically and adopted by ordinance through the amendment procedures set forth in this Section.
  - c. Development impact fees shall be imposed prior to issuance of any building permit.
  - d. The Village shall collect development impact fees at the time and as a condition of issuance of a building permit.
  - e. If it appears to the Building Inspector, after the imposition of the impact fees, that the basis for the imposition of the impact fees has changed so that a greater amount of fees should have been imposed, the Building Inspector may impose the additional fees and place a lien on the property in that amount until the fees are paid.
2. Development Impact Fee Accounts.
  - a. The Village shall establish a development impact fee account for each type of capital improvement for which a DIF is imposed. The development impact fees collected shall be deposited in each such account according to the type of public facility improvement. The funds of the account shall not be commingled with other funds of the Village. Any account previously established for the deposit of funds, which would have been development impact fees under this Section, shall be deemed a development impact fee account for the purposes of this Section and shall be merged into a new development impact fee account where appropriate.
  - b. Each development impact fee account shall be interest bearing, and the accrued interest shall become part of the account.
3. Use of Development Impact Fees.
  - a. Development impact fees may be expended only for the type of capital improvements for which they were imposed, calculated and collected, and only according to procedures established by this Section.
  - b. Development impact fees may be used to repay the Village if the Village constructs the public facilities using other funding sources, and may be used to pay the principal, interest and other costs of bonds, notes and/or other obligations issued or undertaken by or on behalf of the Village to finance such public facilities capital improvements.

Adopted: November 4, 1997

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- c. Where a private party constructs or dedicates public facilities for which a development impact fee has been adopted and which provides a direct benefit to properties owned by other private parties, the DIF may be used to repay the private party to the extent of the direct benefit to others.
- d. Where a development impact fee is not used for the purpose for which it was imposed or collected, such DIF shall be refunded pursuant to this Section 21 of the Zoning Ordinance. The refund shall be paid to the party who owns the property at the time the refund is made.

## 7. Development Impact Fee Credits

1. Eligibility for Development Impact Fee Credits; Method of Calculating Credits.
  - a. A property owner who dedicates land or improvements or agrees to participate in: 1.) a development agreement in which funds for capital improvements are contributed to the Village or in which public facilities are constructed and dedicated for and on behalf of the Village, or 2.) Otherwise contributes funds for capital improvements or public facilities as defined in this Section, may be eligible for a credit reimbursement for such dedication or contribution against the development impact fee payable or paid.
  - b. Any such credit against a DIF shall be in an amount equal to the value of the payer's contribution of funds or dedication of public facilities being funded by the development impact fee. The costs eligible for such credit include planning and design costs, actual construction costs, and the value of the land dedicated or granted by easement, subject to the determinations made by the Village set forth in Paragraph C below. Credit amounts shall not include interest.
  - c. Any application for credit must be submitted on forms provided by the Village before development project approval at the development review stage as provided by the Village of Taos Ski Valley Zoning Ordinance. If an application for credit is not made within this time frame, no credits shall be given to or on behalf of the development.
  - d. Upon receipt of an application for credit against a DIF, the Village Council shall determine:
    1. The value of the developer contribution to the Village;
    2. Whether the contribution or dedication meets capital improvement needs for which the particular development impact fee has been imposed;
    3. Whether and to what extent the contribution or dedication provides a localized improvement benefitting the development;
    4. Whether the contribution will substitute for a public facility or otherwise reduce the need for capital improvements anticipated to be provided with development impact fee funds;

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5. The amount of the credit due the development;
  6. The development impact fee category or categories to which the credit(s) shall apply. In no event, however, shall the credit exceed the amount of the applicable DIF;
  7. The allocation of credit in dollar amounts per development parcel within the larger development.
- e. To make those determinations as required under Paragraph D above, the Village shall consider appraisals, bids, estimates, invoices, projected costs to the Village, and any other information supplied by the party claiming the credit or available to the Village.
  - f. The Village shall make those credit determinations as set forth in Paragraph D above not later than sixty days after receipt of an application for credit from a developer.
2. Development Impact Credits for Construction of Public Improvements.
    - a. To obtain a credit for construction of public facilities improvements, the portion of the development impact fee represented by a credit shall be deemed paid when the construction is completed and approved by the Village or when adequate assurance or security for the completion of the construction has been provided.
3. Development Impact Fee Credits for Dedication of Property.
    - a. To obtain credit for dedication of real property to the Village, the dedication shall occur not later than the time at which the development impact fee is required to be paid.
4. Development Agreements.
    - a. Where a developer and the Village enter into a development agreement in which funds for capital improvements are contributed to the Village or in which public facilities are constructed and dedicated for and on behalf of the Village, such development agreement shall set forth among other things:
      1. The total amount of the credit owed to a developer who constructs or dedicates such public facilities;
      2. The legal descriptions of and allocation of credit in dollar amounts per development parcel within the larger development;
      3. The development impact fee category or categories to which the credit(s) apply; and
      4. The reason(s) for the credit.

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5. Recording of Credit Allocations; Time Limits on Applicability of DIF Credits.
  - a. Credits shall be recorded in such a manner as to allow the appropriate allocation of the credit to future applicants for building permits within the property. Credits shall be payable for a period of up to twenty (20) years from the date the Village issues its credit amount determination or from the date of a final decision of appeal pursuant to Section 6. After twenty (20) years, no credits shall be available.
6. Credits for Existing Development Subject to Development Impact Fees.
  - a. Developments for which partial, phased or otherwise staged development review approval has been received prior to the adoption date of this Section, or for which preliminary or final subdivision plat approval has been received prior to the date of this Section, and which are subject to payment of development impact fees pursuant to this Section, but for which a developer has contributed funds for capital improvements or public facilities as defined in this Section, may be eligible for a credit reimbursement for such dedication or contribution against the development impact fee payable.
  - b. Such credits must be applied for within sixty days of the effective date of this Section and, if an application for credit pursuant to this paragraph is not made within that time frame, no credits shall be given to or on behalf of the development. The procedures for determining credits under this paragraph shall be the same as those set out in this Section above.
7. Development Impact Fee Credits Non-Transferable.
  - a. Credits shall not be transferable or assignable from person to person, from parcel to parcel or from development to development, without the approval of the Village Council.

## 8. Appeals and Refunds.

1. Application and Hearing; Procedures.
  - a. Except as provided in Section 3 of this Section J, one who has paid a development impact fee may appeal for a refund of all or a portion of the DIF by filing an application for refund within thirty days after payment of such fee.
  - b. The application for appeal shall contain, at a minimum, the following:
    1. An appeal cover sheet on a form provided by the Village.
    2. A legal description and tax assessor's parcel number(s) of the applicable property.
    3. A list by name and title, of all ownership interests in the property.
    4. A letter of authorization for an agent.

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

5. Data specific to the development sufficiently detailing the technical basis for the appeal.
  6. A receipt or other evidence that the development impact fee being appealed has been paid.
  7. An appeal fee of Two Hundred and Fifty Dollars (\$250.00) or such other amount as may be fixed from time to time by resolution of the Village Council.
- c. Incomplete appeals applications shall not be processed.
  - d. The Village of Taos Ski Valley Council shall act as an appeals panel. A hearing shall be set not more than forty-five days after receipt of a complete DIF appeal application. The appellant shall be given written notice of the date, time and location of the hearing as soon as practicable after submission of the request, but in any event not less than five days before the hearing. The written notice shall be sent by certified U.S. mail, return receipt requested, first class, postage prepaid. Factual and technical evidence may be submitted on the appellant's behalf at the hearing. The Council may take whatever action with respect to the appeal, as it deems appropriate.
  - e. An appellant may provide a written waiver of one or more of the procedural requirements contained in this section.

2. Permissible Grounds for Refund Appeals; Findings.

- a. The owner of property for which a development impact fee has been paid may apply to the Council for a refund as provided in Article VII, Section 3, or to the extent that: 1.) Funds from other sources to which the property owner contributes are used to fund the capital improvements being funded by the development impact fee, and the payer of the DIF did not receive credit for such contribution at the time the DIF was paid; or 2.) A credit given pursuant to Article VI was insufficient; or 3.) The capital improvements to be funded with the DIF do not provide a benefit to the development, or 4.) The benefit of the capital improvement to the development is less than was expected when the DIF was adopted.
- b. The Council shall refund all or a portion of the DIF if it makes one or more of the foregoing findings. The appellant shall have the burden of proof. The decision of the Village Council shall be final.

3. Refund for Time-Remote Benefit.

- a. The owner of a property for which a development impact fee has been paid may apply to the Village for a "time-remote benefit refund" of all or a portion of the DIF by filing an application for refund not less than five years after payment of the fee.

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- b. For purposes of a “time-remote benefit refund,” the Village shall refund all or a portion of the DIF to the extent appropriate if the appellant shows, and if the Council finds, that the public facilities to be funded with the DIF have not been provided or constructed and will not be provided or constructed within a time frame that will benefit the development. The procedures for appeal under this section shall be the same as those set out in Article VII, Section 1.
- c. Any portion of the development impact fee that has not been spent within ten years for improvements that provide a beneficial use to the development that paid the fee shall be refunded. The refund shall be paid to the party who owns the property at the time the refund is made.

### 9. Waiver of Development Impact Fee

The Village Council may waive from development impact fee programs particular types and locations of development that are determined to serve an over-riding public interest, provided, however, that the waiver does not result in an increase in the development impact fee for other properties in the Village.

### 10. Current Development Impact Fee Schedule.

As of June 15, 2014 the following development impact fees will be applicable in the Village:

- 1. Roadway/Pedestrian/Drainage Impact Fee - \$2.4773per square foot
- 2. Parks and Recreation/Open Space Impact Fee - \$0.4118 per square foot
- 3. General Government Facilities and Equipment Impact Fee - \$0.7738 per square foot
- 4. Public Safety Impact Fee - \$0.7095 per square foot
- 5. Calculation of Cumulative Development Impact Fee:
  - a. For purposes of clarification, and not in addition to the foregoing, the following cumulative development impact fees are established by the Village: **\$4.3724 per square foot**
  - b. Impact fees may be changed on an annual basis by resolution of the Village Council as provided herein.

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## **SECTION 24. CODE ADMINISTRATION.**

### **1. Administrative Official.**

A Planning Officer and/or Officer shall be appointed by the Mayor to administer the provisions of this Ordinance. The Planning Officer and/or Officer may also serve in some other capacity as an employee or appointed official of the Village.

### **2. Inspection.**

The Planning Officer has the authority to conduct inspections of Buildings, Structures, and the Uses of land to determine compliance with this Ordinance. This provision grants a right of entry, if necessary, to the Planning Officer in his capacity of Building Official, pursuant to the International Building Code. The Planning Officer shall provide for on-site inspections and other relevant information, which may be requested by the Council or Commission as necessary to carry out the purpose of this Ordinance.

### **3. Administrative Review.**

The Commission must review an administrative action of the Planning Officer when it is alleged that there is an error in a determination made by the Planning Officer, and may reverse, affirm, or modify the administrative action.

### **4. Information and Records.**

The Planning Officer shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official Village Zoning Map in an updated form. A "Zoning Action File" shall be maintained and shall contain records which include the following:

1. Conditional Use Permits.
2. Variances allowed under this Ordinance.
3. Application for Amendments
4. Certificates of Nonconformance.
5. Zoning Appeals.
6. Building Permit Applications
7. Grading and Excavation Permit Applications
8. Certificate of Compatibility Applications
9. Fencing Permit Applications;

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10. Sign Permit Applications;
11. Light Permit Applications;
12. Special Use Permit Applications;
13. Zoning Violations.
14. Demolition Permit Applications.
15. Tree Cutting Permits

#### **5. Violations: Complaints and Notification.**

The Planning Officer may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any person shall file a written complaint with the Planning Officer who shall immediately investigate such complaint to determine if probable cause that a violation of this Ordinance exists. Whenever the Planning Officer finds probable cause to believe a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Planning Officer shall notify the person responsible of the alleged violation in writing. Such notification shall order the necessary correction to be made within thirty days following the date of notification or require the person responsible to show within fifteen days why they are not in violation of this Ordinance. Any person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.

### **SECTION 25. VARIANCES.**

#### **1. Definition.**

There will be two types of variances:

1. A minimal variance means a variance request for only one of the following reasons:
  - a. A height increase up to an additional five feet;
  - b. A setback encroachment that does not increase the size of the building envelope;
  - c. Any lighting request that does not increase the lighting reflected towards the night sky;
  - d. An increase in the height of a fence up to three feet above the maximum allowable height;
  - e. The height or length of a retaining wall.
2. All other variance requests from the restrictions provided in this code.

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Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

## 2. Application.

Any request for Variance shall be submitted with filing fee to the Planning Officer on a prescribed application form obtainable at the Village Office.

1. The Planning Officer shall have twenty days to review the application and request any supplementary information.
2. If the application is for a minimal variance, the Planning Officer shall have the discretion to allow the minimal variance without referring it to the Commission. In the event the Planning Officer allows such a variance, a sign shall be posted at the property notifying the public of the request for said variance and that all objections to the granting of the variance must be filed in writing with the Planning Officer within thirty days of the date of the posting of the sign. If no objections are filed within the time limit, the variance will be deemed as granted. If an objection is filed, the variance request will be referred for hearing before the Commission.
3. Variances not deemed granted by the Planning Officer shall be heard by the Commission at a public hearing.
4. The Planning Officer shall transmit the application and any supplementary information to the Commission for public hearing at a time mutually convenient to all parties, but in no event later than forty-five days from the date of submission of the application or supplementary information. A public hearing of the application shall be held at the next regularly-scheduled Planning and Zoning Commission Meeting, subject to proper notice requirements for all public hearings, after the Planning Officer's transmission of the application and supplementary information to the Commission.
5. All abutting property owners shall be notified by mail of the hearing at which the Variance application will be considered.
6. The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning Officer, at least fifteen days prior to the date of the hearing at which the application will be heard. The purpose of the sign or signs is to provide public notice of the application for variance. The applicant is responsible for removing such signs within five days after a decision is made regarding the application. Failure to properly post such signs is grounds for deferral or denial of the application.
7. At any public hearing, the strict Rules of Evidence need not apply, but the Commission Chair shall see that the parties are afforded procedural due process. Upon conclusion of the Public Hearing and within twenty days of the closure of the record, the Commission Chair shall prepare findings of fact and conclusions of law and a recommendation, which will be filed with the Village Clerk, with copies to the applicant and all interested parties.

## 3. Amendments.

The Planning Officer may amend, without requesting a hearing, a Variance where there is not a substantial change in the original use approved by the Commission.

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#### 4. Requirement.

The Commission may impose any necessary conditions in approving a Variance to assure that the requested Variance:

1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property;
2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
3. Will not impose any significant cost burden upon the Village; and
4. Will be in harmony with the general purpose and intent of this Ordinance and with the Comprehensive Plan.
5. Financial hardships to the applicant will not be the determinative factor in granting variances.

### SECTION 26. CONDITIONAL USE PERMIT.

#### 1. Permit Required.

Conditional Uses established by this Ordinance shall not be allowed except upon permit issued by the Commission, which shall be guided in making a decision by the criteria set forth in this section. Any person seeking a Conditional Use Permit shall provide to the Planning Officer such information as may be reasonably required to determine whether the approval of the requested Conditional Use Permit is consistent with the intent and purpose of this Ordinance.

#### 2. Application.

Any request for a Conditional Use Permit shall be submitted with filing fee to the Planning Officer on a prescribed application form obtainable at the Village Office.

1. The Planning Officer shall have twenty days to review the application and request any additional information.
2. The Planning Officer shall transmit the application and any supplementary information to the Commission at a time mutually convenient to all parties, but in no event later than forty-five days from the date of submission of the application or supplementary information. A public hearing of the application shall be held at the next regularly-scheduled Planning and Zoning Commission Meeting, subject to proper notice requirements for all public hearings, after the Planning Officer's transmission of the application and supplementary information to the Commission. All abutting property owners shall be notified by mail of the hearing date at which the Conditional Use Permit application will be considered.
3. The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning Officer, at least fifteen days prior to the date of

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the Hearing at which the application will be heard. The purpose of the sign or signs is to provide public notice of the application for conditional use. The applicant is responsible for removing such signs within five days after a decision is made regarding the application. Failure to properly post such signs is grounds for deferral or denial of the application.

4. At any public hearing, the strict Rules of Evidence need not apply, but the Commission Chair shall see that the parties are afforded procedural due process. Upon conclusion of the Public Hearing and within twenty days of the closure of the record, the Commission Chair shall prepare findings of fact and conclusions of law and a recommendation, which will be filed with the Village Clerk, with copies to the applicant and all interested parties.

### 3. Amendments.

The Planning Officer may amend, without presenting to the Commission, a Conditional Use Permit where there is not a substantial change in the original use approved by the Commission.

### 4. Guidelines.

The Commission shall not approve any Conditional Use Permit unless satisfactory provision has been made concerning the following, where applicable:

1. Access to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood, avalanche or catastrophe.
2. The economic, noise, glare, or odor effects of the Conditional Use on adjoining properties.
3. General compatibility with adjacent properties and other properties in the Village with regard to height, landscaping, setbacks, lighting, signs, parking, and design standards when adopted by the Village Council.
4. Compliance with supplementary regulations as delineated in zone in which the property will be located.
5. All improvements required by the Village Planning Department and/or Village Engineer in the Public Works Plan have been completed or completion plans, designs and costs are approved by an agreement approved by the Village Council.

### 5. Expiration.

All Conditional Use Permits shall be issued for the period of time the Commission determines to be consistent with the public interest and the criteria contained in this subsection, or as provided in this Ordinance, and shall be specified in writing at the time of issuance of the permit. Any permit, which does not specifically state the duration of the permit, shall be deemed to be a permanent Conditional Use Permit. At the expiration of any Conditional Use Permit, the Commission must approve an application for renewal of the Conditional Use Permit. Approval of any Conditional Use, prior to construction shall expire within one year if a Building Permit for such construction is not obtained or if site development is not initiated.

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## **SECTION 27. NONCONFORMING USES.**

### **1. Definition.**

Within the zones established by this Ordinance, or amendments that may be adopted, there exist Lots, Structures, and Uses of land and Structures that were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

### **2. Certificate of Nonconformance.**

Nonconforming Lots, Structures, and Uses shall be issued Certificates of Nonconformance as determined by the Planning Officer. Upon receipt of a written notification from the Planning Officer, it shall be the responsibility of owners of nonconforming property to apply to the Planning Officer for a Certificate of Nonconformance within thirty days after the date of notification. The Planning Officer shall issue Certificates of Nonconformance all Nonconforming Uses within the jurisdiction of the Ordinance upon determination of a Nonconforming Use

### **3. Expansion.**

Nonconforming Lots, Structures or Uses shall not be enlarged, expanded, or extended except that changes that comply with current zoning regulations shall be allowed.

### **4. Abandonment.**

Whenever a Nonconforming Use has been discontinued or abandoned for a period of one year or more, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Ordinance.

## **SECTION 28. AMENDMENTS.**

### **1. Amendment.**

The Council may amend any of the regulations, zones, or zone boundaries established by this Ordinance.

### **2. Application.**

Any request for an amendment (zone change) to this Ordinance shall be submitted with filing fee to the Planning Officer on a prescribed application form obtainable at the Village Office. The Planning and Zoning Commission or the Council acting on behalf of the community at large may initiate an application.

### **3. Posting.**

Applicants requesting a zone change shall post a copy of the prescribed form on the property at the applicant's expense. Posting shall be in the form of a sign structure at least three feet high and large enough to receive the form. The sign shall be placed in such a location that it can

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readily be viewed from the nearest roadway.

#### **4. Site Plan.**

Proposed amendments which are zone changes shall be accompanied by an accurate site plan as delineated in Section 8 showing the property, adjoining properties, and other related information as required by the Planning Officer. Submission of inaccurate information is grounds for denial.

#### **5. Public Hearing.**

The Planning Officer shall transmit the application and any supplementary information to the Planning and Zoning Commission at a time mutually convenient to all parties, but in no event later than forty-five days from the date of submission of the request. A public hearing of the request shall be held at the next regularly-scheduled Planning and Zoning Commission Meeting, subject to proper notice requirements for all public hearings, after the Planning Officer's transmission of the application and supplementary information to the Commission. All abutting property owners shall be notified by mail of the hearing date at which the Amendment or zone change application will be considered. Any other notice shall be given as provided by law. At any public hearing, the strict Rules of Evidence need not apply, but the Commission Chair shall see that the parties are afforded procedural due process. Upon conclusion of the Public Hearing and within twenty days of the closure of the record, the Commission Chair shall prepare findings of fact and conclusions of law and a recommendation, which will be filed with the Village Clerk, with copies to the applicant and all interested parties. Additionally, a copy will be filed with the Mayor to be placed on the agenda of the next Council meeting that is scheduled more than fifteen days after the filing of the recommendation. The Council will then hear the matter as an appellate body and hold a public hearing on the proposed ordinance.

#### **6. Notification by Mail.**

Notice of the time and place of the public hearing shall be published at least fifteen days prior to the date of the hearing. Whenever a change in zoning is proposed for an area of one block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the county treasurer, of Lots of land within the area proposed to be changed by zoning regulation and within one hundred feet, excluding public right of way, of the area proposed to be changed by zoning regulation. Whenever a change in zoning is proposed for an area of more than one block or for a change in a zoning district boundary, notice of the public hearing shall be mailed by first class mail to the owners, as shown by the records of the County Treasurer, of Lots of land within the area proposed to be changed by zoning regulation and within one hundred feet, excluding public right of way, of the area proposed to be changed by a zoning regulation. If the notice by first class mail to the owner is returned undelivered, the zoning authority shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address.

### **SECTION 29. APPEALS.**

#### **1. Right of Appeal.**

Any person aggrieved by an interpretation, decision or action of the Planning Officer in carrying

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out the provisions of this Ordinance may appeal such interpretation, decision, or action to the Planning and Zoning Commission as set forth herein. Any person aggrieved by a decision or action of the Planning and Zoning Commission in carrying out the provisions of this Ordinance may appeal to the Village Council. Any such appeal must set forth in writing specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision or action was not supported by evidence in the matter.

## **2. Application.**

Any appeal following a decision of the Planning Officer or the Commission shall be made in writing on prescribed forms obtainable at the Village Office upon payment of the applicable filing fee, and submitted to the Planning Officer. Any appeal not submitted within fifteen days after the decision, which is the subject of the appeal, shall not be considered. The Planning Officer shall transmit all papers involved in the proceedings to the Commission or Council within seven days after the receipt of the appeal application.

## **3. Public Hearing.**

The Commission or Council following a public hearing as set out herein above shall make the decision on an appeal. Notification of the time and place of the public hearing shall be published at least fifteen days prior to the hearing. The Planning Officer shall notify the applicant, members of the Commission or Council, and a representative of the opponents, if any, of the hearing date.

## **4. Stay of Proceedings.**

An appeal shall stay all proceedings in the action unless the Planning Officer certifies that a stay will cause imminent peril to life or property. Upon certification, the proceedings shall not be stayed except by order of District Court.

## **5. Decision.**

An appeal shall be decided within three months of the date of application of the appeal. A majority vote of the members of the Planning and Zoning Commission is required to reverse, change, or affirm an action, decision or recommendation made by the Planning Officer. A majority vote of the members of the Council is required to reverse, change, or affirm a decision made by the Commission. In the event the Commission or the Council reverses or changes the action, decision or recommendation of the Planning Officer, findings of fact and conclusions of law shall be adopted. If the recommendation of the Planning Officer is affirmed by the Commission or Council, it may adopt as its own, based upon the record presented, the findings of fact and conclusions of law made by the Commission Chair.

## **6. Appeal of Village Council Decision.**

If the Council's decision is adverse to the appellant, the appellant may appeal to District Court as provided by the laws and rules of procedure of the State of New Mexico. The record on appeal shall consist of the testimony before the hearing officer, his recommendations, and any decision of the Planning and Zoning Commission. Prior to any appeal to the District Court in which the appellant alleges that by operation of this Ordinance or that by a decision of the Village of Taos Ski Valley, a taking of property without compensation has occurred, the appellant must first raise the issue before the Village Council so that the Village Council may have the opportunity to evaluate the takings claim and take action as it deems appropriate.

Adopted: November 4, 1997

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## **SECTION 30. FILING FEES.**

### **1. Applications.**

Any applications required by this Ordinance shall be filed on prescribed forms obtainable at the Village Office upon payment of a filing fee. Such fees shall not be required of the Village or any official thereof acting in their official capacity.

### **2. Fees.**

The Village Council will establish filing fees.

## **SECTION 31. PENALTIES.**

Any person violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding \$300 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment. Any violation continued for a period of thirty days shall be prosecuted and treated as a separate offense.

## **SECTION 32. REPEALER.**

The Interim Zoning Ordinance, Ordinance 97-16, and Ordinances 98-30, 03-30, 05-30, 07-30, 10-30, 12-30, 13-30, and 14-30 are hereby repealed.

## **SECTION 33. SEVERABILITY.**

The provisions of this Ordinance shall be deemed to be severable, and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

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

## **SECTION 34. EFFECTIVE DATE.**

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

PASSED, APPROVED AND ADOPTED this 11th day of August, 2015

The Village of Taos Ski Valley, New Mexico

Adopted: November 4, 1997

Amended: August 4, 1998, March 2, 1999, October 5, 1999, July 2, 2002, April 6, 2004, October 5, 2004, August 1, 2006, January 2, 2007, November 3, 2009, January 3, 2012, December 4, 2012, December 3, 2013, June 10, 2014, August 11, 2015, July 12, 2016.

By: \_\_\_\_\_

Mayor Neal King

ATTEST:

\_\_\_\_\_  
Ann Marie Wooldridge, Village Clerk

Vote: For \_\_\_\_\_ Against \_\_\_\_\_

Adopted: November 4, 1997

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