



7 Firehouse Road  
Post Office Box 100  
Taos Ski Valley  
New Mexico 87525

(575) 776-8220

E-mail: [vtsv@vtsv.org](mailto:vtsv@vtsv.org)  
Web Site: [www.vtsv.org](http://www.vtsv.org)

**PLANNING & ZONING  
COMMISSION:**

Thomas P. Wittman, Chair  
Henry Caldwell  
Richard Duffy  
Yvette Klinkmann  
Susan Nichols  
J. Christopher Stagg  
Jim Woodard

**VILLAGE ADMINISTRATOR:**  
John Avila

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

**VILLAGE CLERK:**  
Ann Marie Wooldridge

## **PLANNING & ZONING COMMISSION REGULAR MEETING AGENDA**

Monday, November 2, 2020 1:00 P.M.

Via Zoom TeleConference

Email [vtsv@vtsv.org](mailto:vtsv@vtsv.org) for information to attend the meeting  
TAOS SKI VALLEY, NEW MEXICO

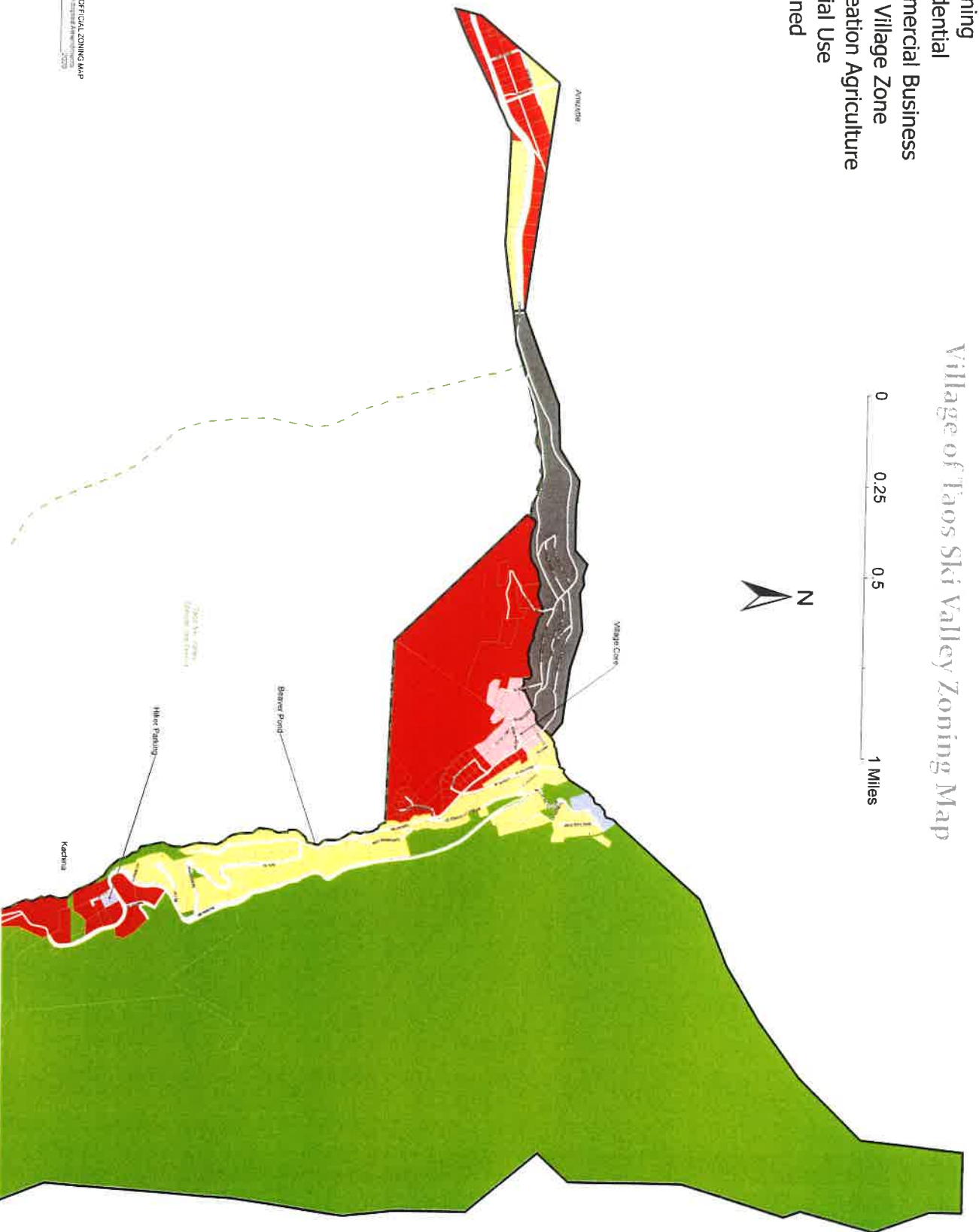
### **AGENDA**

- I. CALL TO ORDER & ROLL CALL**
- II. APPROVAL OF THE AGENDA**
- III. OLD BUSINESS**
  - A. DISCUSSION: CONSIDERATION TO RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF ORDINANCE 2021-30** - An Update to the Village of TSV Official Zoning Map Incorporating Previously Approved Changes.
  - B. DISCUSSION: CONSIDERATION TO RECOMMEND TO COUNCIL APPROVAL OF ORDINANCE 2020-44** - Adoption of the Village Wildland Interface Ordinance.
- IV. NEW BUSINESS**
  - A. PUBLIC HEARING:** Consideration to Approve a Variance Request to the Side Yard Setback for a Residence Addition at 123 Twining Road.
- V. MISCELLANEOUS**
- VI. ANNOUNCEMENT OF THE DATE, TIME, AND PLACE OF THE NEXT MEETING**
- VIII. ADJOURNMENT**

# Village of Taos Ski Valley Zoning Map

- VTSV Zoning**
- Residential
  - Commercial Business
  - Core Village Zone
  - Recreation Agriculture
  - Special Use
  - Unzoned

0 0.25 0.5 1 Miles



This is to certify that this is the OFFICIAL ZONING MAP  
 adopted and for use by the VTSV  
 Mayor Christy Brownell

**VILLAGE OF TAOS SKI VALLEY  
ORDINANCE NO. 2021-30**

**AN ORDINANCE OF THE VILLAGE OF TAOS SKI VALLEY AMENDING ORDINANCE NO. 17-30 TO ADOPT AN UPDATED VILLAGE ZONING MAP**

**WHEREAS**, as an integral and necessary part of its land use planning process, the Village of Taos Ski Valley has adopted zoning regulations in Ordinance No. 17-30;

**WHEREAS**, to accompany these zoning regulations, the Village adopted a Zoning Map outlining the designated zone districts described in Ordinance No. 17-30; and

**WHEREAS**, it is necessary to update the Zoning Map from time to time to incorporate and reflect approved changes to the Zoning Map.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO AS FOLLOWS:**

**Section 1. ADOPTION OF OFFICIAL ZONING MAP**

The Village hereby adopts its official Zoning Map, attached hereto as Exhibit A.

**Section 2. GOVERNING MAPS**

This Zoning Map supersedes any previously adopted Zoning Maps and governs the zoning districts and regulations established by Ordinance No. 17-30.

**PASSED, ADOPTED, AND APPROVED BY THE COUNCIL FOR THE VILLAGE OF TAOS SKI VALLEY UPON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_.**

\_\_\_\_\_  
**CHRISTOF BROWNELL, Mayor**

Attest: \_\_\_\_\_  
**ANN M. WOOLDRIDGE, Village Clerk**



October 16, 2020

7 Firehouse Road  
Post Office Box 100  
Taos Ski Valley  
New Mexico 87525

(575) 776-8220  
(575) 776-1145 Fax

E-mail: [vtsv@vtsv.org](mailto:vtsv@vtsv.org)  
Web Site: [www.vtsv.org](http://www.vtsv.org)

**MAYOR:**  
Christof Brownell

**COUNCIL:**  
Jeff Kern  
Neal King  
J. Christopher Stagg  
Thomas P. Wittman

**VILLAGE  
ADMINISTRATOR:**  
John Avila

**CLERK:**  
Ann M. Wooldridge, CMC

**FINANCE DIRECTOR:**  
Nancy Grabowski

To: Planning and Zoning Commission

Dear Commissioner Whitman,

This is a letter of support for the action, Ordinance 2021-30 to create a Village of Taos Zoning Map and Zoning Map process. It is a tool that has been missing in the Village for many years and requested time and again. The Zoning Map adoption was not brought forward until GIS mapping could produce an updated product and what we have now is appropriate for use by the Village.

Our Zoning ordinance 17-30 S10- (2) calls for a zoning map to be made available to the public and maintained by the Planning Officer. Many communities throughout NM have procedures for updating and amending their zoning maps, even with basic tools, to provide better governmental response to the needs of all citizens; and to establish and maintain a line of communication and open dialogue among participants at all levels of the planning and zoning process.

During NM League of Zoning Officials training it was advised that a regular procedure for amendment to the zoning map, usually a yearly basis, to capture the relevant changes to zoning or parcel description. And our zoning ordinance describes procedures for due process concerning any challenges to the zoning map.

With the improved GIS Mapping and the work that has gone into verifying accuracy of the current zoning, please consider giving recommendation to adopt the Village of Taos Ski Valley Zoning Map. With regular discipline of maintaining a zoning map, the accuracy of the information will become even more accurate.

Sincerely,

John Avila, Village Administrator

cc  
Mayor and Council

**THE VILLAGE OF TAOS SKI VALLEY  
ORDINANCE NO. 2020-44**

**AN ORDINANCE OF THE VILLAGE OF TAOS SKI VALLEY KNOWN AS  
VILLAGE WILDLAND INTERFACE ORDINANCE,  
ADOPTING THE ICC'S  
INTERNATIONAL WILDLAND-URBAN INTERFACE CODE, 2015 EDITION, AND  
ESTABLISHING AMENDMENTS THERETO**

**WHEREAS**, the Village of Taos Ski Valley (the Village) is surrounded by alpine forests and wildlands that can be prone to wildfires, especially in times of drought; and

**WHEREAS**, the Village Council wishes to support the mitigation of wildfire hazards within the Village and surrounding wildland areas through appropriate mitigation techniques and management; and

**WHEREAS**, the International Code Council (ICC) has created a model Code known as the *International Wildland-Urban Interface Code*, which regulates and governs the mitigation of hazard to life and property from the intrusion of wildfire from adjacent wildlands, as well as the prevention of structure fires from unmitigated wildland fuels; and

**WHEREAS**, the Village believes that adoption of the *International Wildland-Urban Interface Code*, is in the best interest of Village citizens in order to protect the health, safety, and welfare of the public from devastating wildfires; and

**WHEREAS**, this Ordinance, in adopting the *International Wildland-Urban Interface Code*, provides a system of guidelines and regulations aimed at preventing wildfires from spreading and threatening the Village, and contains supporting provisions for the issuance of permits and collection of fees; and

**WHEREAS**, in adopting the *International Wildland-Urban Interface Code*, the Village repeals all previous ordinances specifically regulating wildfire hazards, including Ordinance No. 2007-44 of the Village of Taos Ski Valley and all other ordinances and parts of laws in conflict therewith.

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

**Section 1. Adoption.**

The Village of Taos Ski Valley hereby adopts the *International Wildland-Urban Interface Code*, 2015 Edition, as established by the International Code Council (ICC), and repeals all previous Village Ordinances and laws in conflict therewith, including Village Ordinance No. 2007-44.

The adoption of the *VILLAGE WILDLAND INTERFACE ORDINANCE* includes only the following provisions:

- Appendix A, General Requirements.
- Appendix B, Vegetation Management Plan;

The *International Wildland-Urban Interface Code*, 2015 Edition, is hereby made a part of this Ordinance as though fully set forth herein, but with the additions, insertions, deletions and changes, specifically prescribed in *Section 3* below.

## **Section 2. Enforcement by Village of Taos Ski Valley Building Code Official.**

This Ordinance shall be implemented and enforced by the Village's Building Code Official.

## **Section 3. Revised Provisions.**

For Village purposes, the following sections of the *International Wildland-Urban Interface Code*, are hereby revised and adopted as set forth herein:

**Section 101.1 Title.** These regulations shall be known as the *Wildland-Urban Interface Code* of the Village of Taos Ski Valley, hereinafter referred to as "this Code".

**Section 102.6. Grandfathering.** The pre-existing legal occupancy or use of any structure or condition existing on the date of the formal passage of this Code shall be permitted to continue without change, except as is specifically covered in this Code's legally adopted predecessor, Village Ordinance No. 2007-44, or as is deemed necessary by the Village Building Code official for the general safety and welfare of the occupants or general public.

**Section 103.1 Establishment of Enforcement Agency.** The Building Department and the Village's Building Code Official shall bear responsibility for enforcement of this Code.

**Section 106.1 Appeal of Building Code Official's Final Decision.** If the Building Code Official's interpretation or implementation of this Ordinance is subject to dispute, a formal appeal of the Building Code Official's final decision may be brought before the Village Planning and Zoning Commission within thirty (30) days of such decision. Any appeal must be presented to the Village in writing and shall be placed immediately on the Commission's next available public meeting agenda for a full public hearing to address the appeal.

**Section 109.4.7 Violation/Penalties.** Persons who violate this Code or fail to comply with any of the requirements thereof, or who erect, install, alter, repair or do work in violation of the approved construction documents or directives of the Building Code Official, or of a permit or certificate used under the provisions of this Code, shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred (\$300) dollars or by imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**Section 114.4 Failure to Comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of up to three hundred (\$300) dollars.

**Section 4. Administrative Findings of Fact.**

In enacting this Ordinance, the Village adopts requirements for certain findings of fact to be implemented by the Village Building Official pursuant to requirements established by the ICC. These findings of fact are set forth in Exhibit A, attached hereto, and shall be implemented upon adoption of this Ordinance through the Village's administrative process.

**Section 5. Mapping of Wildland Urban Interface Areas.**

Specific boundaries of natural or man-made features of wildland-urban interface areas shall be as shown on the Village of Taos Ski Valley's "Wildland-Urban Interface Area Map", as previously adopted by the Village. The legal description of such areas is as described as follows: Village of Taos Ski Valley.

**Section 6. Copies Available to General Public.**

The public may access an official copy of the fully published *International Wildland-Urban Interface Code*, 2015 Edition, at the Village Clerk's Office, Village of Taos Ski Valley. The Village shall keep three (3) copies on file for review by members of the public upon request.

**Section 7. Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 8. Adoption and Implementation.**

This Ordinance and the rules, regulations, provisions, requirements, orders and matters established herein shall be in full force and effect from the date of this Ordinance's final passage, adoption, and publication.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF JUNE, 2020.**

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

**ATTEST:**

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

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

## EXHIBIT A / ADMINISTRATIVE FINDINGS OF FACT.

### Introduction.

The Village of Taos Ski Valley Building Official, (insert here name of public bodies), makes the following findings of fact that certain climatic, topographic or geological features exist in the Village of Taos Ski Valley, and that those features can, under certain circumstances, affect emergency services. Those features are enumerated in the Village of Taos Ski Valley Community "Wildfire Protection Plan" adopted June 14, 2016. Further, certain Code amendments are made to the New Mexico Administrative Code, International Residential Code, International Building Code and International Fire Code that are aimed at mitigating, to the extent possible, the impact of those features in order to mitigate the dangers of wildfire.

### Finding 1:

That the Village of Taos Ski Valley is situated within the slopes of and at the base of Wheeler Peak and Columbine Hondo Wilderness Areas, and the Upper Rio Hondo Watershed.

State Road 150 is the single evacuation route for residents and visitors to Taos Ski Valley in the event of a catastrophic wildfire, and this highway is the single access route for assistance from neighboring fire-fighting agencies. This Highway passes through a narrow canyon of difficult geographic features, one side a river and the other steep, rocky and forested slopes. Landslide, vehicle accident or fire-fighting activities could make evacuation or access to the Village difficult or impossible. Any of these events coupled with a wildfire threatening Village homes or businesses would likely cause the firefighting capabilities of the Village to be overwhelmed.

### Finding 2:

Seasonal climatic conditions in surrounding forest and Village private properties during late summer and fall create higher risk of fires in those forests and Village properties and homes. Forested areas within the Village could spread canopy fire to surrounding forest canopy, creating a potential for degradation of the Watershed and Wilderness Areas. Village canopy cover could be ignited by structure or property fire. Although some code requirements, such as fire-resistive roof classifications and siding materials have a direct bearing on building survival in wildland fire situations, others, such as residential automatic sprinklers, may also have a positive effect.

In dry climate on low humidity days, many materials are much more easily ignited. Fires are more likely to occur and any fire once started can expand rapidly. Residential automatic sprinklers can arrest a fire within or on a structure before the fire is able to spread to adjacent vegetation and structures.

Seasonal winds also have the potential for interfering with emergency vehicle access, delaying or making impossible emergency access. Spruce and Fir trees, which are common in the Village's surrounding Conifer forests, as well as in the Village, are subject to uprooting in strong winds, due to the relatively small root bases compared to the tree itself.

### Finding 3:



The Village is located in a mountainous region and derives its water supply from Phoenix Spring pumped to water storage and fed to the Village by gravity. These tanks are designed to supply water to satisfy Village needs. Seasonal fluctuations of the spring determine the rate of refill of the tanks. A catastrophic wildfire could consume water in the tanks beyond reserve and leave the Village without water pressure for fire-fighting.

Fires starting in sprinkled buildings are typically controlled by one or two sprinkler heads, flowing as little as 13 gallons per minute each.

Hose streams used by engine companies on well-established structure fires typically use about 250 gallons per minute each, and the estimated water usage for a typical residential fire is 1,250 to 1,500 gallons per minute, according to the Insurance Services Office.

Under circumstances such as a wildfire advancing into the community when multiple fires are starting within the community, the limited water demands of residential sprinklers could protect structures from loss preserving much of the water demands for conflagration fire-fighting.

#### **Finding 4;**

The Village of Taos Ski Valley's topography presents problems in the delivery of emergency services, including fire protection. Mountainous terrain with narrow winding roads lacking circulation, that prevents rapid access especially in times requiring evacuation. There is also non-fire-resistive vegetation on this difficult terrain. In addition to these access and evacuation problems delivery of water for fire-fighting is extremely difficult. The most remote of these areas are served by residential wells lacking capacity for fire-fighting.

#### **Finding 5:**

The Upper Rio Hondo watershed contributes to Village water supply and surface water irrigation for downstream neighborhoods of Valdez and other communities. It is a contributor to the Rio Grande Watershed. Structure or private property fires could spread to this valuable resource, especially from the Kachina Village neighborhood, which borders this identified watershed but also potentially other areas of the Village. Forest fire in this watershed could affect the quality of water at the Phoenix Infiltration Gallery, the sole source of Village water supply. Ash and debris could also affect quality of water in the Rio Hondo for downstream irrigation.

#### **Summary**

The aforementioned problems support the imposition of fire protection requirements greater than those set forth in the New Mexico Administrative Code, International Residential Code, International Building Code and International Fire Code.

Further, these findings support the Village's adoption and immediate implementation of the ICC *International Wildland-Urban Interface Code*, 2015 Edition.

## APPENDIX A

# GENERAL REQUIREMENTS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION A101 GENERAL

**A101.1 Scope.** The provisions of this appendix establish general requirements applicable to new and existing properties located within *wildland-urban interface areas*.

**A101.2 Objective.** The objective of this appendix is to provide necessary fire protection measures to reduce the threat of wildfire in a *wildland-urban interface area* and improve the capability of controlling such fires.

### SECTION A102 VEGETATION CONTROL

**A102.1 General.** Vegetation control shall comply with Sections A102.2 through A102.4.

**A102.2 Clearance of brush or vegetative growth from roadways.** The code official is authorized to require areas within 10 feet (3048 mm) on each side of portions of fire apparatus access roads and driveways to be cleared of non-fire-resistive vegetation growth.

**Exception:** Single specimens of trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

**A102.3 Clearance of brush and vegetative growth from electrical transmission and distribution lines.** Clearance of brush and vegetative growth from electrical transmission and distribution lines shall be in accordance with Sections A102.3.1 through A102.3.2.3.

**Exception:** Sections A102.3.1 through A102.3.2.3 do not authorize persons not having legal right of entry to enter on or damage the property of others without consent of the owner.

**A102.3.1 Support clearance.** Persons owning, controlling, operating or maintaining electrical transmission or distribution lines shall have an *approved* program in place that identifies poles or towers with equipment and hardware types that have a history of becoming an ignition source, and provides a combustible free space consisting of a clearing of not less than 10 feet (3048 mm) in each direction from the outer circumference of such pole or tower during such periods of time as designated by the code official.

**Exception:** Lines used exclusively as telephone, telegraph, messenger call, alarm transmission or other lines classed as communication circuits by a public utility.

**A102.3.2 Electrical distribution and transmission line clearances.** Clearances between vegetation and electrical

lines shall be in accordance with Sections A102.3.2.1 through A102.3.2.3.

**A102.3.2.1 Trimming clearance.** At the time of trimming, clearances not less than those established by Table A102.3.2.1 shall be provided. The radial clearances shown are minimum clearances that shall be established, at time of trimming, between the vegetation and the energized conductors and associated live parts.

**Exception:** The code official is authorized to establish minimum clearances different than those specified by Table A102.3.2.1 when evidence substantiating such other clearances is submitted to and *approved* by the code official.

TABLE A102.3.2.1  
MINIMUM CLEARANCES BETWEEN VEGETATION AND  
ELECTRICAL LINES AT TIME OF TRIMMING

LINE VOLTAGE	MINIMUM RADIAL CLEARANCE FROM CONDUCTOR (feet)
2,400 - 72,000	4
72,001 - 110,000	6
110,001 - 300,000	10
300,001 or more	15

For SI: 1 foot = 304.8 mm.

**A102.3.2.2 Minimum clearance to be maintained.** Clearances not less than those established by Table A102.3.2.2 shall be maintained during such periods of time as designated by the code official. The site-specific clearance achieved, at time of pruning, shall vary based on species growth rates, the utility company-specific trim cycle, the potential line sway due to wind, line sag due to electrical loading and ambient temperature and the tree's location in proximity to the high voltage lines.

**Exception:** The code official is authorized to establish minimum clearances different than those specified by Table A102.3.2.2 when evidence substantiating such other clearances is submitted to and *approved* by the code official.

TABLE A102.3.2.2  
MINIMUM CLEARANCES BETWEEN VEGETATION AND  
ELECTRICAL LINES TO BE MAINTAINED

LINE VOLTAGE	MINIMUM CLEARANCE (inches)
750 - 35,000	6
35,001 - 60,000	12
60,001 - 115,000	19
115,001 - 230,000	30.5
230,001 - 500,000	115

For SI: 1 inch = 25.4 mm.

**A102.3.2.3 Electrical power line emergencies.** During emergencies, the utility shall perform the required work to the extent necessary to clear the hazard. An emergency can include situations such as trees falling into power lines, or trees in violation of Table A102.3.2.2.

**A102.4 Correction of condition.** The code official is authorized to give notice to the owner of the property on which conditions regulated by Section A102 exist to correct such conditions. If the owner fails to correct such conditions, the legislative body of the jurisdiction is authorized to cause the same to be done and make the expense of such correction a lien on the property where such condition exists.

## SECTION A103 ACCESS RESTRICTIONS

**A103.1 Restricted entry to public lands.** The code official is authorized to determine and publicly announce when wildland-urban interface areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of *wildland-urban interface areas*, except public roadways, inhabited areas or established trails and campsites that have not been closed during such time when the *wildland-urban interface area* is closed to entry, is prohibited.

### Exceptions:

1. Residents and owners of private property within *wildland-urban interface areas* and their invitees and guests going to or being on their lands.
2. Entry, in the course of duty, by peace or police officers, and other duly authorized public officers, members of a fire department and members of the Wildland Firefighting Service.

**A103.2 Trespassing on posted private property.** Where the code official determines that a specific area within a *wildland-urban interface area* presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be restricted or closed until changed conditions warrant termination of such restriction or closure. Such areas shall be posted in accordance with Section A103.2.1.

**A103.2.1 Signs.** *Approved* signs prohibiting entry by unauthorized persons and referring to this code shall be placed on every closed area.

**A103.2.2 Trespassing.** Entering and remaining within areas closed and posted is prohibited.

**Exception:** Owners and occupiers of private or public property within closed and posted areas; their guests or invitees; authorized persons engaged in the operation and maintenance of necessary utilities such as electrical power, gas, telephone, water and sewer; and local, state and federal public officers and their authorized agents acting in the course of duty.

**A103.3 Use of fire roads and defensible space.** Motorcycles, motor scooters and motor vehicles shall not be driven or parked on, and trespassing is prohibited on, fire roads or

*defensible space* beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owners. Vehicles shall not be parked in a manner that obstructs the entrance to a fire road or *defensible space*.

**Exception:** Public officers acting within their scope of duty.

**A103.3.1 Obstructions.** Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads or *defensible spaces*, unless located 16 feet (4877 mm) or more above such fire road or *defensible space*.

**A103.4 Use of motorcycles, motor scooters, ultralight aircraft and motor vehicles.** Motorcycles, motor scooters, ultralight aircraft and motor vehicles shall not be operated within *wildland-urban interface areas*, without a permit by the code official, except on clearly established public or private roads. Permission from the property owner shall be presented when requesting a permit.

**A103.5 Tampering with locks, barricades, signs and address markers.** Locks, barricades, seals, cables, signs and address markers installed within *wildland-urban interface areas*, by or under the control of the code official, shall not be tampered with, mutilated, destroyed or removed.

**A103.5.1 Gates, doors, barriers and locks.** Gates, doors, barriers and locks installed by or under the control of the code official shall not be unlocked.

## SECTION A104 IGNITION SOURCE CONTROL

**A104.1 General.** Ignition sources shall be controlled in accordance with Sections A104.2 through A104.10.

**A104.2 Objective.** Regulations in this section are intended to provide the minimum requirements to prevent the occurrence of wildfires.

**A104.3 Clearance from ignition sources.** Clearance between ignition sources and grass, brush or other combustible materials shall be maintained at not less than 30 feet (9144 mm).

**A104.4 Smoking.** Where required by the code official, signs shall be posted stating NO SMOKING. Persons shall not smoke within 15 feet (4572 mm) of combustible materials or nonfire-resistive vegetation.

**Exception:** Places of habitation or in the boundaries of established smoking areas or campsites as designated by the code official.

**A104.5 Equipment and devices generating heat, sparks or open flames.** Equipment and devices generating heat, sparks or open flames capable of igniting nearby combustibles shall not be used in *wildland-urban interface areas* without a permit from the code official.

**Exception:** Use of *approved* equipment within inhabited premises or designated campsites that are not less than 30 feet (9144 mm) from grass-, grain-, brush- or forest-covered areas.

**A104.6 Fireworks.** Fireworks shall not be used or possessed in *wildland-urban interface areas*.

**Exception:** Fireworks allowed by the code official under permit in accordance with the *International Fire Code* where not prohibited by applicable local or state laws, ordinances and regulations.

**A104.6.1 Authority to seize.** The code official is authorized to seize, take, remove or cause to be removed fireworks in violation of this section.

**A104.7 Outdoor fires.** Outdoor fires in wildland-urban interface areas shall comply with Sections A104.7.1 through A104.7.3.

**A104.7.1 General.** Persons shall not build, ignite or maintain any outdoor fire of any kind for any purpose in or on any *wildland-urban interface area*, except by the authority of a written permit from the code official.

**Exception:** Outdoor fires within inhabited premises or designated campsites where such fires are in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator or grill and are not less than 30 feet (9144 mm) from any combustible material or nonfire-resistive vegetation.

**A104.7.2 Permits.** Permits shall incorporate such terms and conditions that will reasonably safeguard public safety and property. Outdoor fires shall not be built, ignited or maintained in or on hazardous fire areas under the following conditions:

1. When high winds are blowing;
2. When a person 17 years old or over is not present at all times to watch and tend such fire; or
3. When a public announcement is made that open burning is prohibited.

**A104.7.3 Restrictions.** Persons shall not use a permanent barbecue, portable barbecue, outdoor fireplace or grill for the disposal of rubbish, trash or combustible waste material.

**A104.8 Incinerators, outdoor fireplaces, permanent barbecues and grills.** Incinerators, outdoor fireplaces, permanent barbecues and grills shall not be built, installed or maintained in *wildland-urban interface areas* without approval of the code official.

**A104.8.1 Maintenance.** Incinerators, outdoor fireplaces, permanent barbecues and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an *approved* spark arrestor, screen or door.

**Exception:** Where *approved* by the code official, unprotected openings in barbecues and grills necessary for proper functioning.

**A104.9 Reckless behavior.** The code official is authorized to stop any actions of a person or persons if the official determines that the action is reckless and could result in an ignition of fire or spread of fire.

**A104.10 Planting vegetation under or adjacent to energized electrical lines.** Vegetation that, at maturity, would

grow to within 10 feet (3048 mm) of the energized conductors shall not be planted under or adjacent to energized power lines.

## SECTION A105 CONTROL OF STORAGE

**A105.1 General.** In addition to the requirements of the *International Fire Code*, storage and use of the materials shall be in accordance with Sections A105.2 through A105.4.2.

**A105.2 Hazardous materials.** Hazardous materials in excess of 10 gallons (37.8 L) of liquid, 200 cubic feet (5.66 m<sup>3</sup>) of gas, or 10 pounds (4.54 kg) of solids require a permit and shall comply with nationally recognized standards for storage and use.

**A105.3 Explosives.** Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within *wildland-urban interface areas*, except by permit from the code official.

**A105.4 Combustible materials.** Outside storage of combustible materials such as, but not limited to, wood, rubber tires, building materials or paper products shall comply with the other applicable sections of this code and this section.

**A105.4.1 Individual piles.** Individual piles shall not exceed 5,000 square feet (465 m<sup>2</sup>) of contiguous area. Piles shall not exceed 50,000 cubic feet (1416 m<sup>3</sup>) in volume or 10 feet (3048 mm) in height.

**A105.4.2 Separation.** A clear space of not less than 40 feet (12 192 mm) shall be provided between piles. The clear space shall not contain combustible material or non-fire-resistive vegetation.

## SECTION A106 DUMPING

**A106.1 Waste material.** Waste material shall not be placed, deposited or dumped in wildland-urban interface areas, or in, on or along trails, roadways or highways or against structures in *wildland-urban interface areas*.

**Exception:** *Approved* public and *approved* private dumping areas.

**A106.2 Ashes and coals.** Ashes and coals shall not be placed, deposited or dumped in or on wildland-urban interface areas.

### Exceptions:

1. In the hearth of an established fire pit, camp stove or fireplace.
2. In a noncombustible container with a tightfitting lid, which is kept or maintained in a safe location not less than 10 feet (3048 mm) from nonfire-resistive vegetation or structures.
3. Where such ashes or coals are buried and covered with 1 foot (305 mm) of mineral earth not less than 25 feet (7620 mm) from nonfire-resistive vegetation or structures.

### SECTION A107 PROTECTION OF PUMPS AND WATER STORAGE FACILITIES

**A107.1 General.** The reliability of the water supply shall be in accordance with Sections A107.2 through A107.5.

**A107.2 Objective.** The intent of this section is to increase the reliability of water storage and pumping facilities and to protect such systems against loss from intrusion by fire.

**A107.3 Fuel modification area.** Water storage and pumping facilities shall be provided with a *defensible space* of not less than 30 feet (9144 mm) clear of nonfire-resistive vegetation or growth around and adjacent to such facilities.

Persons owning, controlling, operating or maintaining water storage and pumping systems requiring this *defensible space* are responsible for clearing and removing nonfire-resistive vegetation and maintaining the *defensible space* on the property owned, leased or controlled by said person.

**A107.4 Trees.** Portions of trees that extend to within 30 feet (9144 mm) of combustible portions of water storage and pumping facilities shall be removed.

**A107.5 Protection of electrical power supplies.** Where electrical pumps are used to provide the required water supply, such pumps shall be connected to a standby power source to automatically maintain electrical power in the event of power loss. The standby power source shall be capable of providing power for not less than 2 hours in accordance with Chapter 27 of the *International Building Code*, Section 604 of the *International Fire Code* and NFPA 70.

**Exception:** A standby power source is not required where the primary power service to pumps is underground as approved by the code official.

### SECTION A108 LAND USE LIMITATIONS

**A108.1 General.** Temporary fairs, carnivals, public exhibitions and similar uses must comply with all other provisions of this code in addition to enhanced ingress and egress requirements.

**A108.2 Objective.** The increased public use of land or structures in wildland-urban interface areas also increases the potential threat to life safety. The provisions of this section are intended to reduce that threat.

**A108.3 Permits.** Temporary fairs, carnivals, public exhibitions or similar uses shall not be allowed in a designated *wildland-urban interface area*, except by permit from the code official.

Permits shall incorporate such terms and conditions that will reasonably safeguard public safety and property.

**A108.4 Access roadways.** In addition to the requirements in Section 403, access roadways shall be not less than 24 feet (7315 mm) wide and posted NO PARKING. Two access roadways shall be provided to serve the permitted use area.

Where required by the code official to facilitate emergency operations, *approved* emergency vehicle operating areas shall be provided.

### SECTION A109 REFERENCED STANDARDS

IBC—15	International Building Code <sup>®</sup>	A107.5
IFC—15	International Fire Code <sup>®</sup>	A104.6, A105.1, A107.5
NFPA 70—14	National Electrical Code	A107.5

## APPENDIX B

# VEGETATION MANAGEMENT PLAN

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION B101 GENERAL

**B101.1 Scope.** Vegetation management plans shall be submitted to the code official for review and approval as part of the plans required for a permit.

**B101.2 Plan content.** Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the building. A vegetation management plan shall include at least the following information:

1. A copy of the site plan.
2. Methods and timetables for controlling, changing or modifying areas on the property. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, ladder fuels and dead trees, and the thinning of live trees.
3. A plan for maintaining the proposed fuel-reduction measures.

**B101.3 Fuel modification.** To be considered a *fuel modification* for purposes of this code, continuous maintenance of the clearance is required.

## Building Official Planning and Zoning Report 11-02-20

Commission Chair and Commission Members;

Thank you for this opportunity to present the proposed Village Wildland Interface Ordinance 2020-44 update of the 2007-44 Village adoption of the International Urban Wildland Interface Code 2003. As your Building Official I highly recommend this step forward for the Village. The 2015 edition of the currently titled International Wildland Urban Interface Code has few changes from the original I will specify two of in this note.

The International Code Council has published 2 articles this October from which I would like to present some of the passages here. The entire articles are posted on the Village Website: Village Services; Building Services.

The first section Wildfire Risk is in your package. The last paragraph on the first page (2) and the table on the second (3) are most concerning. It evidences the focus of the Insurance Services Office on our state, and undoubtedly our County and Village surrounded as we are by National Forest and wildlands. Update and implementation of this Village Ordinance will assist the rates and possibly insurability of your residences.

### Mitigating Wildfire Risk

What is left out of this paper is the state key for the map. Orange are the states that have not adopted the IWUIC for the state as a whole. Your attention should be directed to the last paragraph on the first page (7). I also hope you will pay close attention to the McClatchy analysis on the second page (8).

Page 9 is included for a general introduction and description of the code adopted by your ordinance.

Differences noted from the 2003 to 2015 Codes. Very few differences can be found in the body of the Codes typical changes are noted here:

- (1.) 2003 107.4.4 see 2015 109.4.7

Due to the unpopularity of any prescribed penalties I propose the striking of 109.4.7, leaving provisions 109.4.6 and 109.4.8 as mechanisms for prosecution of violations of the Ordinance.

- (2.) 2003 Section 607 see also 2015 Section 607

Due to the extreme snowfall at our elevation and the difficulty at times of accessing firewood 20 feet from the building I propose a provision allowing a reasonable 3 day supply of firewood to be stored on decks or under overhangs during fall and winter seasons.

I thank the Commission for your attention to this Village Ordinance and respectfully request your recommendation to Village Council the update from 2003 version to the 2015 publication.

This link to the 2018 version of the IWUIC has not been reviewed for differences from the 2015. They are noted with a black stripe in the margin. <https://codes.iccsafe.org/content/IWUIC2018>

Thank you,

Jalmar Bowden



## Wildfire Risk

Just as the nation is addressing the resilience challenges posed by COVID-19, several states in the Western United States are experiencing the most devastating wildfires on record. As of September 10, the 2020 wildfires in California resulted in a record 2.3 million acres burned, eight deaths and 3,700 destroyed structures.<sup>1</sup>

The U.S. Forest Service (USFS) determined that approximately 12 percent of the land in the contiguous U.S. is subject to high or very high wildfire hazard potential.<sup>2</sup> See Figure 1. While some of this land is in areas with little potential risk to human life and property, the number of people in the wildland-urban interface (WUI) is growing. The WUI in the United States grew rapidly from 1990 to 2010 in terms of both number of new houses (from 30.8 to 43.4 million; 41% growth) and land area (from 581,000 to 770,000 km<sup>2</sup>; 33% growth), making it the fastest-growing land use type in the conterminous United States. The vast majority of new WUI areas were the result of new housing (97%), not related to an increase in wildland vegetation. Within the perimeter of wildfires from 1990 to 2015, there were 286,000 houses in 2010, compared with 177,000 in 1990.<sup>3</sup>

The WUI is also widespread outside of the US, including Argentina, Australia, France, and South Africa.<sup>4</sup>

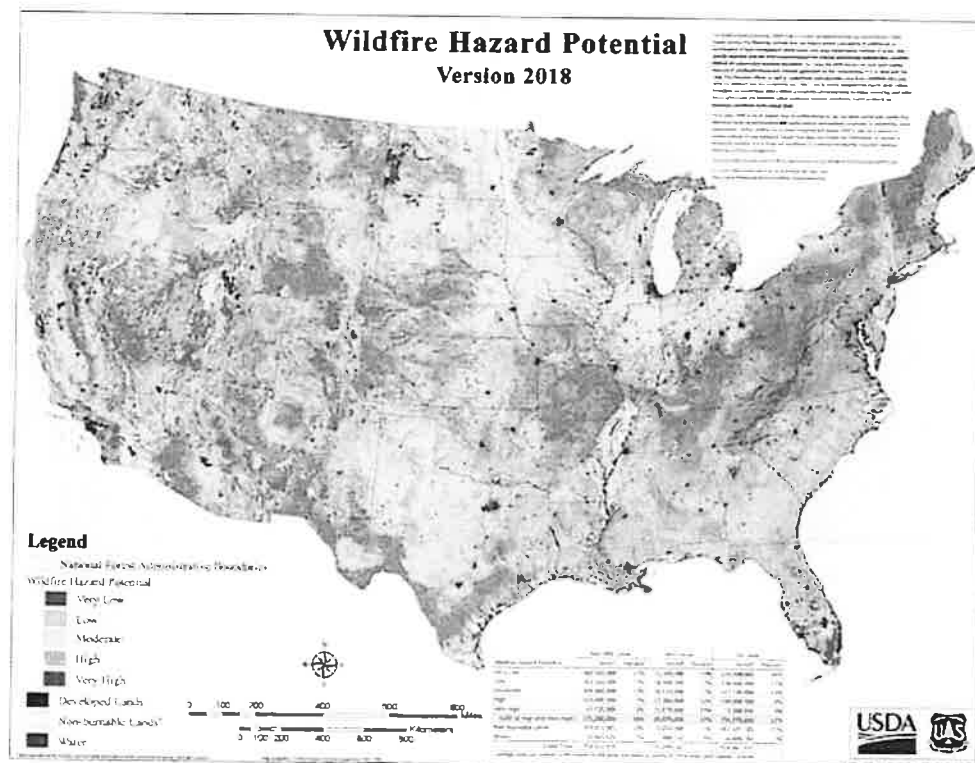


Figure 1. Wildfire Hazard Potential Map (USFS 2018)

CoreLogic found that 15 states (Alaska, Arizona, California, Colorado, Florida, Idaho, Montana, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming) represent the highest risk. In these states more than 1.9 million single family residences (SFRs) are at an elevated level of risk with a combined reconstruction cost value (RCV) of more than \$638 billion. This comprises approximately 6.5% of the total number of SFRs in these states. Multifamily residential structures (MFRs) at elevated risk account for nearly 2.4% of all multifamily residences in these states.<sup>5</sup>

The Insurance Services Office (ISO) and Verisk identified 13 states with high to extreme wildfire risk for housing units built in the WUI. Table 1 highlights these states and the number and percentage of housing units at risk. Percentage numbers reflect the percent of total housing in each state for each category.<sup>6</sup>





Table 1. Housing Units at Risk of Wildland Fire (Verisk)

State	Total Housing Units	Housing Units At-Risk to Wildfire in the WUI					
		High/Extreme	%	Moderate	%	Low	%
California	13,680,100	2,064,900	15	1,653,100	12	9,972,100	73
Texas	9,977,400	717,800	7	2,355,400	24	6,904,100	69
Colorado	2,212,900	373,900	17	301,700	14	1,537,300	69
Arizona	2,844,500	242,000	9	490,800	17	2,111,600	74
Idaho	667,800	175,000	26	125,100	19	367,700	55
Washington	2,885,700	160,500	6	444,200	15	2,281,000	79
Oklahoma	1,664,400	153,400	9	344,000	21	1,167,100	70
Oregon	1,675,600	151,400	9	356,400	21	1,167,800	70
Montana	482,800	137,800	29	119,200	25	225,900	47
Utah	979,700	136,000	14	137,100	14	706,500	72
New Mexico	901,400	131,600	15	220,500	24	549,200	61
Nevada	1,173,800	67,100	6	116,300	10	990,400	84
Wyoming	261,900	36,800	14	72,000	27	153,100	58



## MITIGATING WILDFIRE RISK

While there are many factors that lead to wildland fire, there are methods to reduce the impacts these fire events have on people and structures within the WUI. The Forest Service and its other federal, tribal, state, and local partners have developed and are implementing the *National Cohesive Wildland Fire Management Strategy*<sup>13</sup> (the *National Cohesive Strategy*). The *National Cohesive Strategy* outlines wildfire management opportunities including general guidance on homes, communities, and values at risk:

- Promote community and homeowner involvement in planning and implementing actions to mitigate the risk posed by wildfire.
- Emphasize proactive wildfire risk mitigation actions.
- Pursue municipal, county, and state building and zoning codes and ordinances that mitigate fire risk to protect life and property from wildfire.

Among management options offered to help mitigate the U.S. wildfire problem, the *National Cohesive Strategy* suggests that focusing on building codes supports the goal of making homes and other buildings more resistant to ignition.<sup>14</sup>

The adoption and enforcement of building codes—particularly the International Wildland Urban Interface Code or IWUIC—is one such method. As of August 2020, state or local jurisdictions in 20 states adoption varies. See figure 5.



Figure 5. States with state-wide or local adoption of the IWUIC

Building codes are an essential strategy in achieving resilience. Code-based strategies to enhance community resilience must be coordinated across all building codes including energy, plumbing, mechanical, electrical and fire codes. As examined in greater depth in the section that follows, the IWUIC addresses the specific risks to people and structures in the WUI.

The Congressionally established National Institute of Building Sciences (NIBS), found that compliance with the 2015 IWUIC provides \$4 of benefit for every \$1 invested at the national level with some counties seeing benefits exceeding \$6.<sup>15</sup> See Figure 6. NIBS also found that retrofitting structures in the WUI to provisions of the 2018 IWUIC provides a conservative benefit of \$2 for every \$1 invested but it could yield as much as an \$8 benefit.



Figure 6. Benefit Cost Ratio of adopting the 2015 IWUIC (by county) (NIBS)

A McClatchy analysis following the California Camp Fire in October 2018 found that 51% of the structures built after a WUI code was implemented escaped damage compared to 18% of the 12,100 structures built prior.<sup>16</sup> The IWUIC generally meets or exceeds the California structural wildfire code studied.

The federal government supports the application of the IWUIC for its own buildings and within the disaster mitigation programs it funds. Executive Order 13728 established that all federal buildings over 5,000 square feet in the WUI comply with the IWUIC.<sup>17</sup> In its first round of Community Development Block Grant (CDBG) mitigation funding (CDBG-MIT) issued in 2019, the Department of Housing and Urban Development (HUD) recognized the importance of up-to-date codes including those that address WUI-related risks. The U.S. Federal Emergency Management Agency (FEMA) requires the IWUIC for federal funded post-disaster reconstruction of building and energy and water infrastructure in the WUI.<sup>19</sup> Pending legislation in the U.S. House of Representatives would provide tax credits towards rebuilding to the IWUIC.<sup>20</sup>

This white paper, the third<sup>21</sup> in a series examining how different International Codes contribute to resilience, explores the contributions provided by the IWUIC.



## RESILIENCE AND THE INTERNATIONAL WILDLAND URBAN INTERFACE CODE

The IWUIC recognizes the benefits of a holistic approach to addressing risks and enhancing community resilience. Protection from wildfires relies on a community-wide approach that engages multiple actors. Reliance on building-level measures alone will not provide the level of protection necessary.

As provided in the preface to the 2021 IWUIC, "The IWUIC is a model code that is intended to be adopted and used supplemental to the adopted building and fire codes of a jurisdiction. The unrestricted use of property in wildland-urban interface areas is a potential threat to life and property from fire and resulting erosion. The IWUIC has as its objective the establishment of minimum special regulations for the safeguarding of life and property from the intrusion of fire from wildland fire exposures and fire exposures from adjacent structures and to prevent structure fires from spreading to wildland fuels, even in the absence of fire department intervention.

Safeguards to prevent the occurrence of fires and to provide adequate fire protection facilities to control the spread of fire in wildland-urban interface areas are provided in a tiered manner commensurate with the relative level of hazard present."<sup>22</sup>

Unlike other model codes produced by the Code Council, the IWUIC focuses on protecting life and property from a very specific threat.<sup>23</sup> It works in conjunction with other codes including the International Building Code (IBC), International Residential Code (IRC), International Fire Code (IFC) and International Property Maintenance Code (IPMC) to provide requirements in areas vulnerable to wildfire. These requirements directly influence the resilience of buildings and communities in the WUI.

Like all the I-Codes, the IWUIC is updated every three years through the code development process. For the first time a code commentary has been developed for the 2018 IWUIC. Provisions for the 2024 edition will be considered in 2021 with code change proposals due January 11, 2021.<sup>24</sup> As communities use the IWUIC and recover from recent wildfire events, they are encouraged to share their lessons learned through the submission of code change proposals.

As outlined in Table 4, provisions in the IWUIC provide resilience through requirements that address building-level and community-level measures. The Code provides communities and property owners with flexibility to identify and deploy the most practical or cost-effective solution for their particular situation. Chapter 5 of the IWUIC provides flexibility across mitigation measures such as ignition resistant materials, water supply and defensible space.

that are in violation of this code, the code official is authorized to issue corrective orders and notices.

**107.2.2 Service of orders and notices.** Orders and notices authorized or required by this code shall be given or served on the owner, operator, occupant or other person responsible for the condition or violation either by verbal notification, personal service, or delivering the same to, and leaving it with, a person of suitable age and discretion on the premises; or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to the person's last known address.

Orders or notices that are given verbally shall be confirmed by service in writing as herein provided.

**107.3 Right of entry.** Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in any building or on any premises any condition that makes such building or premises unsafe, the code official is authorized to enter such building or premises at all reasonable times to inspect the same or to perform any duty authorized by this code, provided that if such building or premises is occupied, the code official shall first present proper credentials and request entry; and if such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

If such entry is refused, the code official shall have recourse to every remedy provided by law to secure entry. Owners, occupants or any other persons having charge, care or control of any building or premises, shall, after proper request is made as herein provided, promptly permit entry therein by the code official for the purpose of inspection and examination pursuant to this code.

#### **107.4 Compliance with orders and notices.**

**107.4.1 General compliance.** Orders and notices issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the corrective order or notice pertains.

If the building or premises is not occupied, such corrective orders or notices shall be complied with by the owner.

**107.4.2 Compliance with tags.** A building or premises shall not be used when in violation of this code as noted on a tag affixed in accordance with Section 107.4.1.

**107.4.3 Removal and destruction of signs and tags.** A sign or tag posted or affixed by the code official shall not be mutilated, destroyed or removed without authorization by the code official.

**107.4.4 Citations.** Persons operating or maintaining an occupancy, premises or vehicle subject to this code who allow a hazard to exist or fail to take immediate action to abate

a hazard on such occupancy, premises or vehicle when ordered or notified to do so by the code official shall be guilty of a misdemeanor.

**107.4.5 Unsafe conditions.** Buildings, structures or premises that constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment as specified in this code or any other ordinance, are unsafe conditions. Unsafe buildings or structures shall not be used. Unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal, pursuant to applicable state and local laws and codes.

### **SECTION 108 CERTIFICATE OF COMPLETION**

No building, structure or premises shall be used or occupied, and no change in the existing occupancy classification of a building, structure, premise or portion thereof shall be made until the code official has issued a certificate of completion therefor as provided herein. The certificate of occupancy shall not be issued until the certificate of completion indicating that the project is in compliance with this code has been issued by the code official.

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other pertinent laws and ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other laws or ordinances of the jurisdiction shall not be valid.

[A] **109.4.6 Prosecution of violation.** If the notice of violation is not complied with promptly, the code official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

[A] **109.4.7 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the *approved* construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] **109.4.8 Abatement of violation.** In addition to the imposition of the penalties herein described, the code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## SECTION 110 CERTIFICATE OF COMPLETION

[A] **110.1 General.** A building, structure or premises shall not be used or occupied, and a change in the existing use or occupancy classification of a building, structure, premise or portion thereof shall not be made until the code official has issued a certificate of completion therefor as provided herein. The certificate of occupancy shall not be issued until the certificate of completion indicating that the project is in compliance with this code has been issued by the code official.

[A] **110.2 Certificate of occupancy.** Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other pertinent laws and ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other laws or ordinances of the jurisdiction shall not be valid.

### Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section 107.3.
2. Accessory structures.

[A] **110.3 Temporary occupancy.** The code official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The code official shall set a time period during which the temporary certificate of occupancy is valid.

[A] **110.4 Revocation.** The code official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, on the basis of incorrect information supplied, or where it is determined that the building or structure, premise or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

## SECTION 111 TEMPORARY STRUCTURES AND USES

[A] **111.1 General.** The code official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The code official is authorized to grant extensions for demonstrated cause.

[A] **111.2 Conformance.** Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

[A] **111.3 Termination of approval.** The code official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

## SECTION 112 FEES

[A] **112.1 Fees.** A permit shall not be issued until the fees prescribed in Section 112.2 have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

[A] **112.2 Schedule of permit fees.** A fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

[A] **112.3 Work commencing before permit issuance.** Any person who commences any work before obtaining the necessary permits shall be subject to an additional fee established by the applicable governing authority, which shall be in addition to the required permit fees.

[A] **112.4 Related fees.** The payment of the fee for the construction, alteration, removal or demolition of work done in connection to or concurrently with the work or activity authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

[A] **112.5 Refunds.** The applicable governing authority is authorized to establish a refund policy.

## SECTION 113 SERVICE UTILITIES

[A] **113.1 Connection of service utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code

## FIRE PROTECTION REQUIREMENTS

**603.2.3 Groundcover.** Deadwood and litter shall be regularly removed from trees. Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated *defensible space*, provided they do not form a means of transmitting fire from the native growth to any structure.

### SECTION 604 MAINTENANCE OF DEFENSIBLE SPACE

**604.1 General.** Defensible spaces required by Section 603 shall be maintained in accordance with Section 604.

**604.2 Modified area.** Nonfire-resistive vegetation or growth shall be kept clear of buildings or structures, in accordance with Section 603, in such a manner as to provide a clear area for fire suppression operations.

**604.3 Responsibility.** Persons owning, leasing, controlling, operating or maintaining buildings or structures are responsible for maintenance of *defensible spaces*. Maintenance of the *defensible space* shall include modifying or removing non-fire-resistive vegetation and keeping leaves, needles and other dead vegetative material regularly removed from roofs of buildings and structures.

**604.4 Trees.** Tree crowns extending to within 10 feet (3048 mm) of any structure shall be pruned to maintain a minimum horizontal clearance of 10 feet (3048 mm). Tree crowns within the *defensible space* shall be pruned to remove limbs located less than 6 feet (1829 mm) above the ground surface adjacent to the trees.

**604.4.1 Chimney clearance.** Portions of tree crowns that extend to within 10 feet (3048 mm) of the outlet of a chimney shall be pruned to maintain a minimum horizontal clearance of 10 feet (3048 mm).

**604.4.2 Deadwood removed.** Deadwood and litter shall be regularly removed from trees.

### SECTION 605 SPARK ARRESTERS

**605.1 General.** Chimneys serving fireplaces, barbecues, incinerators or decorative heating appliances in which solid or liquid fuel is used, shall be provided with a spark arrester. Spark arresters shall be constructed of woven or welded wire screening of 12 USA standard gage wire (0.1046 inch) (2.66 mm) having openings not exceeding  $\frac{1}{2}$  inch (12.7 mm).

**605.2 Net free area.** The net free area of the spark arrester shall not be less than four times the net free area of the outlet of the chimney.

### SECTION 606 LIQUEFIED PETROLEUM GAS INSTALLATIONS

**606.1 General.** The storage of liquefied petroleum gas (LP-gas) and the installation and maintenance of pertinent equipment shall be in accordance with the *International Fire Code* or, in the absence thereof, recognized standards.

**606.2 Location of containers or tanks.** LP-gas containers or tanks shall be located within the *defensible space* in accordance with the *International Fire Code*.

### SECTION 607 STORAGE OF FIREWOOD AND COMBUSTIBLE MATERIALS

**607.1 General.** Firewood and combustible material shall not be stored in unenclosed spaces beneath buildings or structures, or on decks or under eaves, canopies or other projections or overhangs. When required by the code official, storage of firewood and combustible material stored in the *defensible space* shall be located a minimum of 20 feet (6096 mm) from structures and separated from the crown of trees by a minimum horizontal distance of 15 feet (4572 mm).

**607.2 Storage for off-site use.** Firewood and combustible materials not for consumption on the premises shall be stored so as to not pose a hazard. See Appendix A.



## SECTION 604 MAINTENANCE OF DEFENSIBLE SPACE

**604.1 General.** Defensible spaces required by Section 603 shall be maintained in accordance with Section 604.

**604.2 Modified area.** Nonfire-resistive vegetation or growth shall be kept clear of buildings or structures, in accordance with Section 603, in such a manner as to provide a clear area for fire suppression operations.

**604.3 Responsibility.** Persons owning, leasing, controlling, operating or maintaining buildings or structures are responsible for maintenance of defensible spaces. Maintenance of the defensible space shall include modifying or removing nonfire-resistive vegetation and keeping leaves, needles and other dead vegetative material regularly removed from roofs of buildings and structures.

**604.4 Trees.** Tree crowns extending to within 10 feet (3048 mm) of any structure shall be pruned to maintain a minimum horizontal clearance of 10 feet (3048 mm). Tree crowns within the defensible space shall be pruned to remove limbs located less than 6 feet (1829 mm) above the ground surface adjacent to the trees.

Portions of tree crowns that extend within 10 feet (3048 mm) of the outlet of a chimney shall be pruned to maintain a minimum horizontal clearance of 10 feet (3048 mm).

Deadwood and litter shall be regularly removed from trees.

## SECTION 605 SPARK ARRESTERS

Chimneys serving fireplaces, barbecues, incinerators or decorative heating appliances in which solid or liquid fuel is used, shall be provided with a spark arrester. Spark arresters shall be constructed of woven or welded wire screening of 12 USA standard gage wire (0.1046 inch) (2.66 mm) having openings not exceeding  $\frac{1}{2}$  inch (12.7 mm).

The net free area of the spark arrester shall not be less than four times the net free area of the outlet of the chimney.

## SECTION 606 LIQUEFIED PETROLEUM GAS INSTALLATIONS

**606.1 General.** The storage of LP-gas and the installation and maintenance of pertinent equipment shall be in accordance with the *International Fire Code* or, in the absence thereof, recognized standards.

**606.2 Location of containers.** LP-gas containers shall be located within the defensible space in accordance with the *International Fire Code*.

## SECTION 607 STORAGE OF FIREWOOD AND COMBUSTIBLE MATERIALS

Firewood and combustible material shall not be stored in unenclosed spaces beneath buildings or structures, or on decks or

under eaves, canopies or other projections or overhangs. When required by the code official, storage of firewood and combustible material stored in the defensible space shall be located a minimum of 20 feet (6096 mm) from structures and separated from the crown of trees by a minimum horizontal distance of 15 feet (4572 mm).

Firewood and combustible materials not for consumption on the premises shall be stored so as to not pose a hazard. See Appendix A.





## Planning & Zoning Commission

Thomas P. Wittman, Chair  
Henry Caldwell  
Richard Duffy  
Yvette Klinkmann  
Susan Nichols  
J. Christopher Stagg  
Jim Woodard

---

### **Staff Report**

#### **Variance Request: Side Yard Setback 123 Twining Road**

##### **1. Case Summary**

Date of Hearing: November 2, 2020  
Application Received: September 25, 2020  
Date of Posting: October 15, 2020  
Plan Review Fees: \$800 - Variance Request

**Project Description:** The applicant intends to construct a residential addition on the north side of their home. The approximately 800 sq. ft. addition encroaches less than three linear feet and a total of +/- 20 sq. ft. into the side yard setback. The present Village Zoning Code establishes a fifteen-foot set yard setback.

A thorough Design Review set of the proposed home expansion is attached as Exhibit B, which provides a clear site plan, current photos, renderings, and elevations.

**Prior Actions/Approvals:** None on this current request.

##### **2. Zoning Analysis:**

**A.** The subject property is located along (Upper) Twining Road and is zoned Residential (R).

Apart from the present Variance request, the application as presented, complies with all pertinent zoning regulations and conditions.

**B.** In Planning & Zoning Ordinance 17-30 Section 11:4 Supplemental Regulations within a R Zone - Minimum Setback requirements for a Side Yard Setback are as follows:

*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.*

**C.** The Planning and Zoning Ordinance instructs the Commission in Section 25 - Variances, subsection 4: to follow the criteria below when evaluating and permitting a variance request:

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

The applicant generally complies with the intentions of all the above variance criteria.

**D.** The NM State statute variance criteria Section 3-21-8(C)(1) allows variances that meet the following guidelines:

- (a) that are not contrary to the public interest;*
- (b) where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;*
- (c) so that the spirit of the zoning ordinance is observed, and substantial justice done; and*
- (d) so that the goals and policies of the comprehensive plan are implemented.*

The applicant has partly addressed the NM State statute variance criteria in their submittal.

**3. Recommendation:** Although the applicant has not adequately met the spirit and intent of the Variance provisions nor sufficiently justified their request, due to the minimum nature of the Variance requested and owing to the support and acceptance

of both adjoining property owners, Staff recommends a motion to **Approve** the Variance.

#### **4. Public Notice & Public Comments**

The notice of public hearing was mailed to all abutting property owners within 100 feet on October 15, 2020. A public notice sign was placed on the property on October 15, 2020.

The application and Staff Report were made available at the Villages Office for public review. The following written comments were received by the public:

- A. Two letters of support from neighbors to the subject property.

#### **5. Staff Endorsements**

Submitted By:



Patrick Nicholson  
Director, Planning & Community Development Department

#### **6. Attachments**

- A. Justification letter from applicant
- B. Site plan and design documents
- C. Letters of support from two neighbors

September 25, 2020

**Patrick Nicholson,**  
Planning & Community Development Director.  
Village of Taos Ski Valley  
Taos Ski Valley NM 87525

Dear Mr. Nicholson,

I am reaching out to you and the Planning and Zoning Commission for a very small side yard setback variance for an addition on my house at 123 Upper Twining Road, Taos Ski Valley, NM

I have spoken with the neighbors next door at 121 Upper Twining Rd and we felt this was the best option for both of us. That is why they wrote the letter you have from them. The house they are building cantilever extends approximately 25' over the perineal stream setback (15ft to the stream and approximately 10 ft past). This addition would give us each our privacy.

I look forward to having the Trevisani's as neighbors. Turns out, we were all in the same business and have many friends and business acquaintances in common. I look forward to sharing our mutual friends when they come out to visit.

Since the house was well underway being manufactured before a permit had been issued, I did not want to force them or the builder to have the expense of having to totally rebuild what had already been done. I had a nice conversation with Wendy Trevisani and Jed Magee and found out what had actually happened in the building process. Therefore, we came to an agreement that I would add on to the North side of my house at considerable expense to me to complement their project.

The reason I need the variance of about 3 feet is that I want to keep the roof line consistent aesthetically, and functionally.

In addition, exterior of the room is still only about 12 feet wide and will be much smaller inside. We are planning on removing a large section of the existing deck to push the new addition as far away from their property line as possible and in front of our living room.

Also, while I am doing this, my wife and I are in our 60's and not getting any younger. We are planning to have this as an exercise/therapy room, knowing skiing and steps may not be an option much longer. I want to create a situation where everything is on one level. Swim spas are about 8 feet wide leaving just over a foot on each side in the interior.

Additionally, we live on an island in Florida and this has been our evacuation site (everything we need is here). We may be spending more time here as the storms keep getting worse.

As you can see, I am trying to minimize the encroachment.

Thank you for your consideration,

David Margarone

## Patrick Nicholson

---

**From:** Susu <scolqu9604@aol.com>  
**Sent:** Friday, October 23, 2020 2:32 PM  
**To:** Patrick Nicholson  
**Cc:** D Margarone  
**Subject:** 123 Upper Twining Rd Variance Request

Mr. Nicholson,

We have been the uphill neighbors of the Margarone's for over 20 years. Our house is next door at 125 Twining Rd. I am writing to support the variance request for the addition to their home. I have also copied David on this email.

There are no problems that I can see for us, or for the neighborhood, and I think that it will blend in well with the new house below them and the rest of the neighborhood.

Thank you so much. If you need to contact me, I am including my phone number as well. I'm happy to discuss.

Many thanks,

Susan Colquitt

125 Twining Road  
713 502-8780  
scolqu9604@aol.com

**From:** Wendy Trevisani

**Sent:** Friday, August 7, 2020 7:16 PM

**To:** dmargarone@hotmail.com; dmargarone@aol.com

**Subject:** Signed agreement

Lmk if this works!

Looking very forward to fun times ahead.

All best

Wendy

August 7 2020

To: The Village of Taos Ski Valley

Due to the size and orientation of our planned house at 121 Upper Twining Road and the encroachment on the setback, we understand the Margarone's need to add on to their home at 123 Upper Twining Road.

We ask the Village to fully support up to a 5ft encroachment into the side yard setback by the Margarone's, on the Margarone's side of the property, of our adjoining property line.

We look forward to being neighbors.  
Thank You,

Peter Trevisani

Wendy Trevisani

With acceptance of the agreement between the Trevisanis and the Margarone's, the Margarone's agree to forgo appealing the Variance granted by the Village of Taos Ski Valley on August 2, 2020.

David and Patricia Margarone Trust  
David J Margarone Trustee

Peter Trevisani

Wendy Trevisani

Sent from my iPhone



# Lot 8, Block L, O.E. Pattison Subdivision, Taos Ski Valley, Taos County, New Mexico



- LEGEND**
- 3/8" REBAR FOUND
  - ✕ POINT NOT FOUND
  - FENCE
  - GATE
  - CULVERT
  - ALLEYWAY
  - ELECTRIC METER
  - OVERHEAD POWER LINE
  - UTILITY POLE

**BEARING BASE**  
 Bearings of this survey are based on  
 information derived from reference to the  
 National Grid System, Zone 18N.

PLAT	REFERENCE	DATE	FILE NO.	DATE	REMARKS
171	Lot 8, Block L, O.E. Pattison Subdivision	11/13/17	309	22 Nov 1985	



**AS-BUILT SURVEY**  
 Surveyed, written, filed & map of the property of Lot 8, Block L, O.E. Pattison Subdivision, Taos County, New Mexico.

Survey plot prepared for:  
 Lot 8, Block L, O.E. Pattison Subdivision, Taos County, New Mexico.

**Red Tail Surveying, Inc.**  
 1000 West 1st Street, Suite 100  
 Taos, NM 87570  
 Phone: (505) 231-1000  
 Fax: (505) 231-1001  
 Email: info@redtailsurveying.com

**Margarone**

Drawn: LB  
 Printed: A. Wells  
 Date: 22 May 2020  
 Scale: 1" = 10'  
 Job no.: 2418.00









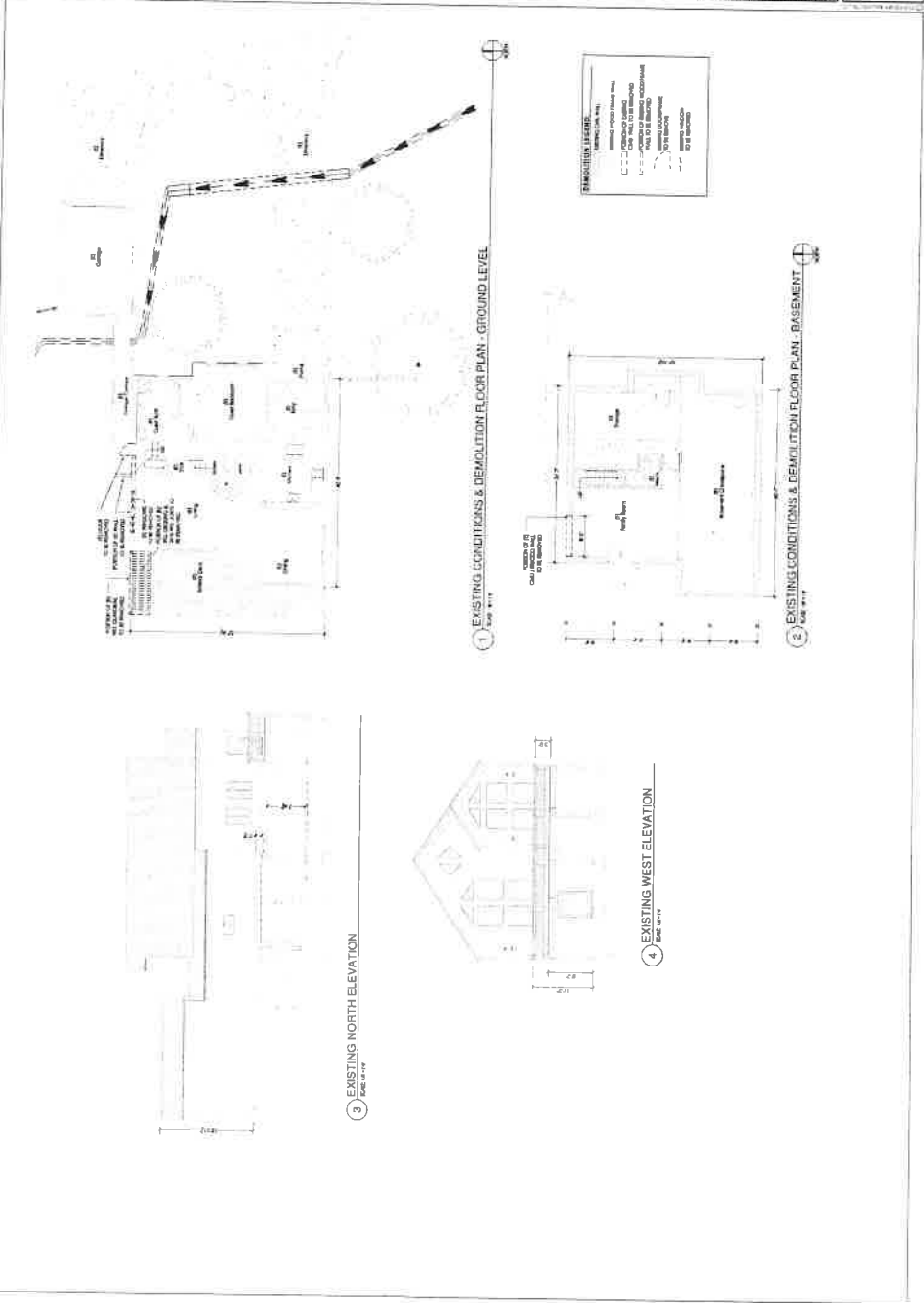
DESIGN TEAM  
ARCHITECTS

**EXISTING CONDITIONS, DEMO NOTES**

**A-0.1**

**Margaronc Residence**  
**2 Story Addition**  
**#123 Twinning Road**  
**Taos Ski Valley, NM 87525**

DATE	BY	CHECKED	APPROVED	SCALE
				1/8" = 1'-0"



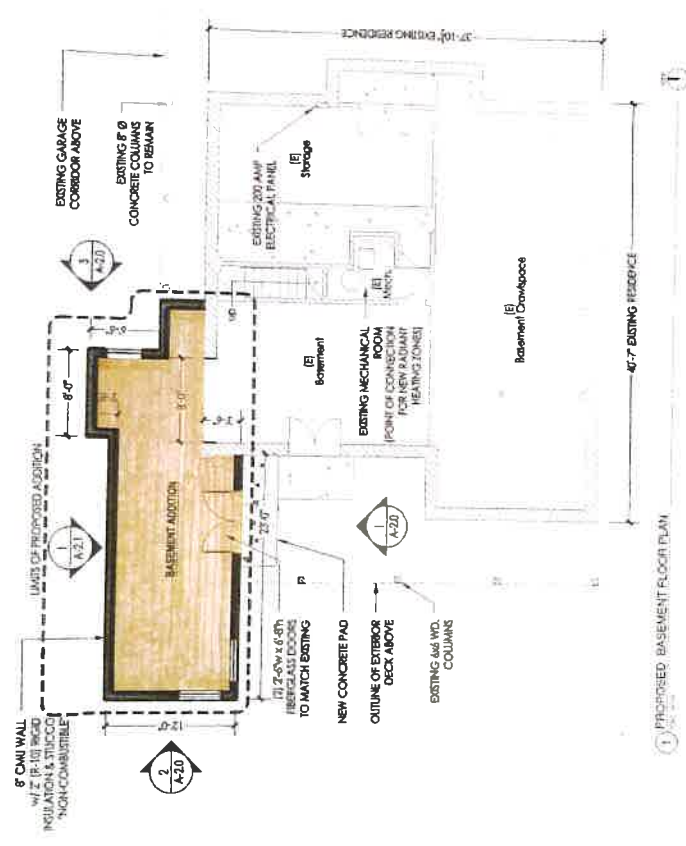


DESIGN BY  
EARTHWORKS

MORTON RESIDENCE  
#123 TWINING ROAD  
TWIN FALLS, ID 83725

PROJECT NO. 12345  
DATE: 12/15/2020  
DRAWN BY: J. SMITH  
CHECKED BY: M. JONES

PROPOSED  
BASEMENT  
FLOOR PLAN  
A-1.0







DESIGN REVIEW

THESE ELEVATIONS WERE PREPARED BY THE ARCHITECT FOR THE CLIENT'S REVIEW. THEY ARE NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT. ANY CHANGES TO THE ELEVATIONS MUST BE APPROVED BY THE ARCHITECT IN WRITING.

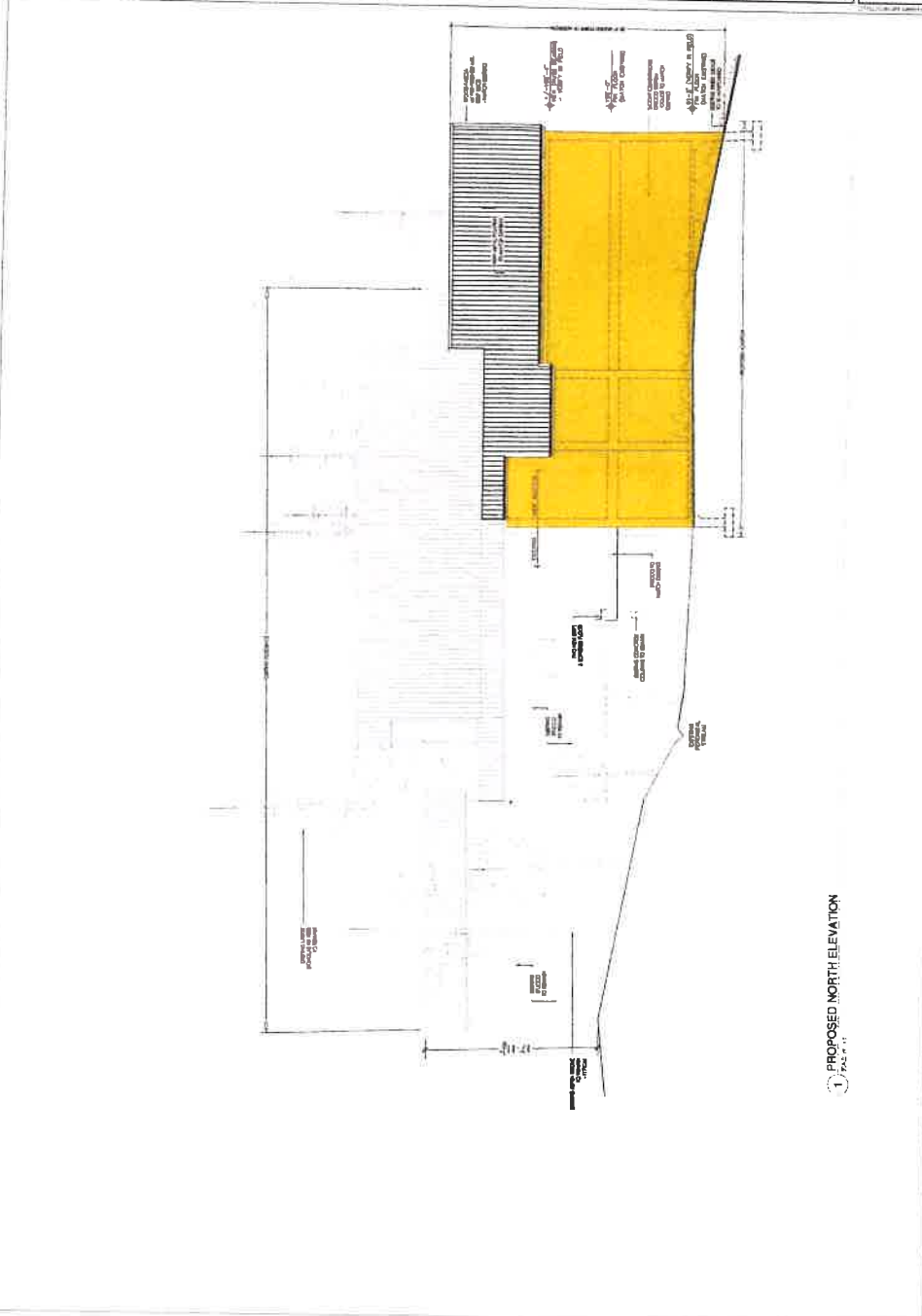
2 STORY ADDITION  
1232 TWILIGHT ROAD  
THE SKI VALLEY, NH 03628

10% DESIGN REVIEW  
DATE: 01/15/2011  
BY: J. HENRY

SCALE: 1/4" = 1'-0"

EXTERIOR - ELEVATIONS

A-2.1



PROPOSED NORTH ELEVATION  
1/4" = 1'-0"





**HOBBS ARCHITECTS**  
1000 Main Street, Suite 200  
Newburyport, MA 01950  
Tel: 978.389.1234  
Fax: 978.389.1235  
www.hobbsarchitects.com

**PROJECT INFORMATION**

**2 STORY ADDITION**  
1000 Main Street, Suite 200  
Newburyport, MA 01950

**DATE: 10/1/10**

**SCALE: 1/8" = 1'-0"**

**EXTERIOR ELEVATIONS**

**A-2.0**

