

# THE VILLAGE OF TAOS SKI VALLEY

## ORDINANCE NO. 10-30

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

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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

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**THE VILLAGE OF TAOS SKI VALLEY**

**ORDINANCE NO. 10-30**

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

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**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 (hereinafter "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, 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:

- A. 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.
- B. To involve participation of affected resource agencies at any early stage of the application process with new hillside development projects.
- C. 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.
- D. To encourage all of the characteristics and qualities of a cohesive neighborhood that promotes a "sense of place" within a hillside setting.

- E. 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.
- F. 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.**

#### **A. Pre-application Process**

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.

#### **B. Development Review**

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.**

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

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.

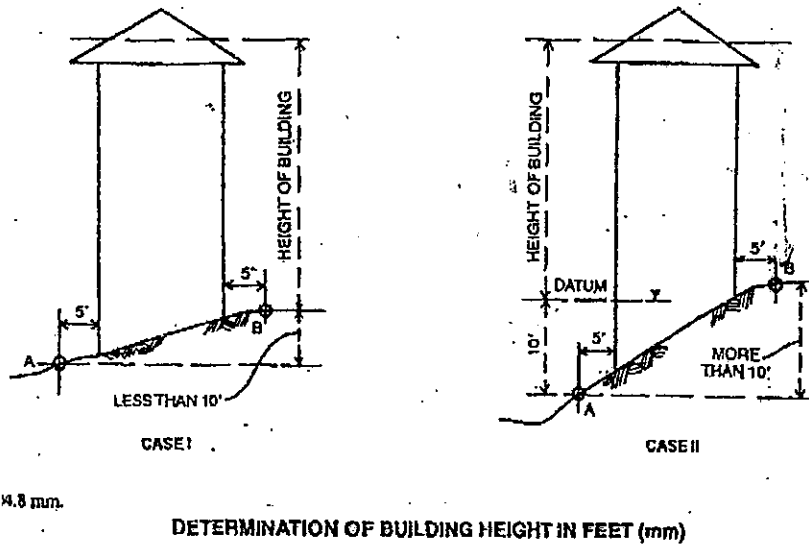
B. Definitions. The following definitions apply to this Ordinance:

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.

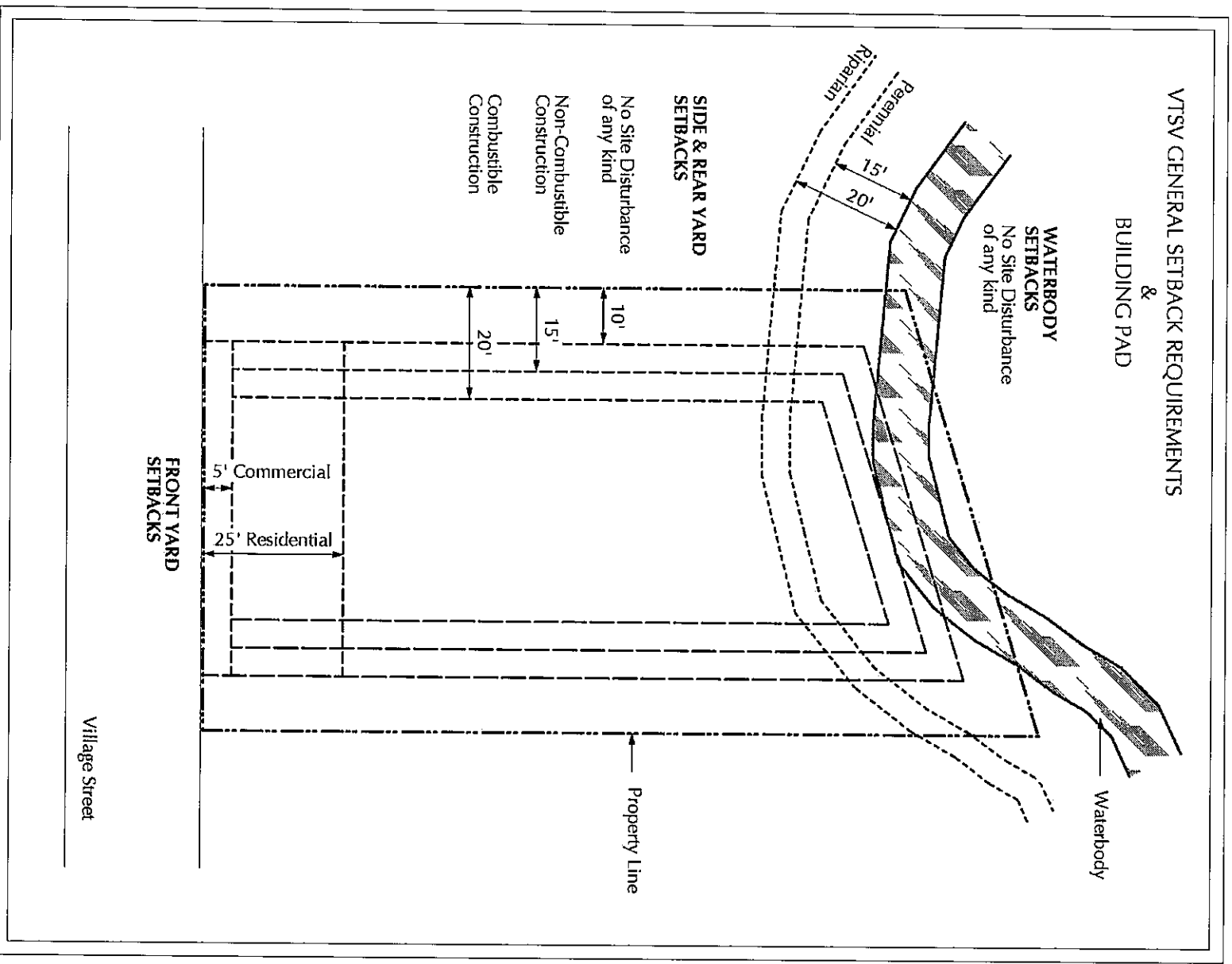
4. "Adult Book Store" means an establishment having a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical 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.
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 mountain side.
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 3 (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. "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.
  - a. The elevation of the highest grade when it is 10 feet or less above the lowest grade; or
  - b. An elevation 10 feet higher than the lowest grade when the highest grade is more than 10 feet above the lowest grade
  - c. The height of a stepped or terraced building is the maximum height of any segment of the building.



18. "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.
19. "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.
20. "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.



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

21. "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.
22. "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.
23. "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.
24. "Clinic" means an establishment occupied by one or more members of the medical, dental, or veterinary profession for the purpose of providing health services.
25. "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.
26. "Collection" means the point at which the development impact fee is actually paid to the Village.
27. "Commercial" means a use of property for purposes other than a permissive use or conditional use in a residential zone.
28. "Commission" means the Planning and Zoning Commission of the Village.
29. "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.
30. "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.
31. "Contiguous" means touching or separated only by a Public Right-of-way.
32. "Council" means the Village Council of the Village.
33. "Deciduous" means a plant or tree, which sheds its foliage annually.

34. "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.
35. "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; or 2) mining, drilling (excepting 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.
36. "Development fee" or "DIF" means a monetary fee imposed by the Village pursuant to Section 20 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.
37. "Dwelling, Multi-Family" means a single structure containing two or more dwelling units including but not limited to condominiums and apartments.
38. "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.
39. "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.
40. "Evergreen" means a plant or tree having green foliage throughout the year, or that is coniferous.
41. "Family" means any individual, or two (2) 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 (4) unrelated adults occupying the same dwelling unit on a continuous basis for a period of time greater than one (1) month.
42. "Excavation and Grading Permit" means the permit that is required prior to any excavation or grading being performed on the Lot.
43. "Farming" means cultivation and/or harvesting of any plants, trees, fruits or vegetables and/or raising of livestock.
44. "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.
45. (omitted)

46. "Footprint" means the horizontal extent to which a structure covers the ground plane as represented in 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.
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 paragraph 17 of this section.
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.
61. "Lot, Double Frontage" means any Lot with Frontage on two parallel or approximately parallel streets.

62. "Lot Line, Front" means the boundary line of a Lot bordering on a road or a Public Right-of-way.
63. "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.
64. "Lot Line, Side" means any Lot boundary line which is not a Front Lot Line or a Rear Lot Line.
65. "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.
66. "Mobile Home" means a movable or portable housing structure as defined in Subsection B of Section 3-22-2 NMSA 1978.
67. "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 (30) days or more, or are sold, exclusively for mobile home placement and occupancy.
68. "Mobile Home Subdivision" means a subdivision in which lots are sold exclusively for mobile home occupancy.
69. "Modular or Manufactured Home" means a modular or manufactured home as defined in Subsection A of Section 3-22-2 NMSA 1978.
70. "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.
71. "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.
72. "Parking, Off-Street" means an area used for required parking of motorized vehicles as regulated by this Ordinance.
73. "Perennial Stream" means a natural watercourse that flows year round.
74. "Permissive Use" means any use authorized in a particular zone district established by this Ordinance.
75. "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.
76. "Planning Office" see Planning Officer.

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 Village's 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.
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 5 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.
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 (8) feet in width and thirty (30) 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 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.**

- A. **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.

- B. 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.
- C. 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.
- D. Snow Safety. Structures and lots shall be designed so that snow, ice, and icicles cannot slide onto or be placed on 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.
- E. 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 center line of walls separating adjoining units of a building.
  2. Exclusions.
    - a. General Exclusions
      1. Areas covered by decks. Areas covered by an above grade deck shall be excluded from square footage calculations, provided said areas: (a) are not located above finished grade; and (b) are not enclosed, in whole or in part, by railing, landscaping, screening or other materials higher than three (3) feet above finished grade.
      2. 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 ninety percent (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.
      3. 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.

## **SECTION 8. PERMIT APPLICATIONS**

### **A. 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.
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 (90) 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 (2) years of its effective date.

### **B. 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. The excavation and grading permit fee shall be paid by owner 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 (21) 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.

C. 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, 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. The foundation permit fee shall be paid by owner 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 (30) 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.

D. 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 (60) 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.
  - 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.

E. 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.

F. Sign Permits

1. Intent and purpose. The sign permit is required by any owner or owner's authorization representative prior to the initiation of any signage.
2. 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 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 sign permit together with the requisite fees therefore.
4. Time Limit: The Planning Officer may approve or disapprove the sign permit within ten (10) 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. Special Definitions: For the purpose of this section the following definitions shall apply:
  - a. Sign means 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 except for the following which shall not be included in the application of regulations herein:

- b. National, State or locally recognized commemorative symbols, flags, plaques, or historical markers;
  - c. Signs or official notices required by law or signs of a duly constituted governmental body or agency;
  - d. Merchandise and pictures or other devices describing products or services when incorporated in a window display;
  - e. Signs placed by a public utility for the health, safety, welfare, or convenience of the public;
  - f. Signs required to be posted pursuant to the New Mexico Ski Safety Act; and
  - g. Exterior display cases, attached to a building, not exceeding 20 square feet.
6. Auxiliary Sign is a sign designed primarily to provide specific information such as direction, price, sales information, hours of operation or warning, and does not advertise or promote merchandise, services or activities, except that such signs may indicate that the sign is sponsored by an individual, entity or product as long as the area containing the sponsoring information does not exceed 20% of the total sign face. Examples of such signs include the following:
- a. signs identifying the building contractor or future tenant of a building under construction;
  - b. signs used by gasoline retailers to display prices of gasoline as required by law;
  - c. signs which direct but do not obstruct the flow of traffic in or out of drives, parking areas and buildings, and provided each sign is no larger than 5 square feet on each face;
  - d. signs relating to the sale or lease of any real property;
  - e. recreational trail signs; and
  - f. Signs giving ski trail names and difficulty of run, ski area directional signs such as, but not limited to directions to lifts, lift lines, ski school meeting places and ski patrol facilities.
  - g. Message boards that are 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 one-half hour after dusk and remain off until operations begin in the morning.
7. A banner is any sign consisting of paper, fabric, canvas, rubber, plastic or similar material, with no other material for rigid structural support. A banner may not be a permanent sign.
8. Building-Mounted Sign is a sign entirely supported by a building in the following manner: a wall sign which is applied or mounted flush to any exterior surface of a building; and signs affixed to or

incorporated into a marquee, awning, or canopy of a building. A building-mounted sign shall not project beyond the overall silhouette of the building.

9. Freestanding Sign is a sign attached to an independent supporting structure, which is not an integral part of a building.
10. Illuminated Sign is any non-moving, non-flashing sign which has characters, letters, figures, designs or outlines illuminated by an artificial light source.
11. A non-conforming sign is a sign legally existing at the effective date of this ordinance, which could not be built and erected under the terms of this ordinance.
12. Off-Premise Sign is any sign that is not physically located on the premises to which the sign refers; off-premise signs may not be permanent signs.
13. On-Premise Sign is any sign that is physically located on the premises to which the sign refers;
14. Pennant is any lightweight plastic fabric, or other 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.
15. Recreational Trail Sign is a sign that identifies a designated recreational trail at various points along the trail and which contains information important to users of the trail, such as directions, identification of restrooms, camping, picnic or parking areas; such signs may not be used to advertise or promote merchandise, services or commercial activities.
16. Sandwich Board is any temporary or seasonal sign that is two sided, with information on only two sign faces and meant to be removed as needed for change of information.
17. Seasonal sign is a sign erected for display for a period greater than 30 days during the time period between May 20 and October 15 of any calendar year. Seasonal signs are permitted only in commercial areas.
18. Sign Face is 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 sign face is counted in computing the sign area.
19. Street Banner is a sign intended to be stretched across and hung over a public roadway.
20. A temporary sign is a sign that is not permanently fixed to the land or to a structure and that is designed or intended to be displayed only for a limited period of time.
21. No person shall erect a sign within the Village without first applying for a sign permit on a prescribed application form available from the Planning Officer. A permit will not be required for the following exceptions:
  - a. all auxiliary signs;
  - b. professional name plates erected flush to building walls with a sign face not exceeding 4 square feet;

- c. signs upon a motorized vehicle, provided that any such vehicle with a sign face over 10 square feet is not used in a manner to avoid the requirements of this Ordinance; nothing herein prevents such a vehicle from being used for a bona fide delivery and other vehicular purposes;
  - d. temporary holiday decorations;
  - e. for any real property for sale or lease, one on-premises real estate sign with a sign face not exceeding 10 square feet, and no more than 1 off-premises real estate directional sign with a sign face not exceeding 3 square feet, providing that all such signs shall be removed within 5 days after the property is sold;
  - f. a subdivision may have a sign located on the subdivided property advertising lots for sale as long as the sign face does not exceed 25 square feet and in addition, the subdivider may have up to 3 off-premises signs directing or leading prospective buyers to the subdivision. Such signs may have a sign face not exceeding 3 square feet and all such subdivision signs shall be removed no more than 5 days after the last subdivided lot is sold;
  - g. one price sign per gasoline retailer, provided that no such sign face shall exceed 25 square feet; and
  - h. Signs related to a political campaign prior to an election are permitted on any lot provided the following conditions are met:
    - 1. written permission is obtained from the owner;
    - 2. such signs shall not be placed more than 60 days prior to the election and shall be removed within 3 days following the election; and
    - 3. such signs shall not exceed six (6) square feet on each sign face; and
  - i. exterior display cases not exceeding 4 square feet in size.
22. 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 premise 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 sign permit; and
  - e. signature and written permission of land owner for off-premise signs.



23. Any 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, location or content changes to the sign face require a permit and that the sign be brought into compliance with the requirements of this ordinance.
24. No permanent sign shall exceed the height of the lowest level of the roof on the side of the building to which it is attached.
25. Any sign located at a roadway intersection shall be located in such a way as to maintain the vision clearance necessary for safety.
26. No sign shall be placed within a dedicated public right-of-way.
27. 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 Ordinance.
28. The following types of signs or advertising devices shall be prohibited within the Village:
  - a. spotlights which do not illuminate a sign or which do not illuminate a building or parking lot for security purposes;
  - b. signs which are animated in any manner other than non-moving, non-flashing external illumination;
  - c. 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;
  - d. sign structures containing 3 or more sign faces;
  - e. signs which are or may become a physical hazard to the public;
  - f. signs which are mounted or transported on a trailer or similar portable structure with or without wheels;
  - g. a pennant or pennants that draw attention to, advertise, or promote merchandise, services or activities; and
  - h. signs which are lit internally.
29. Regulations for Business Signs. The following regulations shall apply to all businesses, commercial activities, special uses and services throughout the Village:
  - a. No more than 2 permanent, on-premise signs shall be allowed to advertise each business, commercial or service activity.
  - b. No more than one off-premise sign shall be allowed to advertise each business, commercial or service activity, provided the following conditions are met:
  - c. Off-premise seasonal or temporary signs shall not be placed in R zones; and
  - d. No such sign shall be more than 20 feet above ground level.

30. No sign face shall exceed 48 square feet excepting sandwich board signs which can have sign faces no larger than 12 square feet.
31. Signs may be illuminated consistent with the exterior lighting regulations of this ordinance, or any other Village ordinance, but shall not move, flash, emit sounds or otherwise be animated in any manner; any illumination by spotlight must illuminate the sign only. 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. All such lighting shall be turned off within 30 minutes of the closing of the business.
- 32.. One of the two permanent signs allowed for each business may be a freestanding sign, provided that only one such freestanding sign structure shall be allowed on any lot and provided that the total combined sign face shall not exceed 96 square feet in area. Buildings with multiple tenants such as shopping centers are encouraged to share space on freestanding or building mounted signs.
33. One non-illuminated on-premise sign is permitted for each home occupation, such use having been approved by the Village, provided that no such sign face shall exceed 5 square feet.
34. Regulations for Temporary and Seasonal Signs. The following regulations for temporary and seasonal signs shall apply to all Zone Districts within the Village. Such seasonal and temporary signs require a permit.
  - a. All temporary signs relating to business, commercial activity or services require a permit and must be placed in a non-residential area. Only 4 such permits may be granted annually to any one business, commercial activity or service for any one site. Such temporary signs may be erected for a period not to exceed 30 consecutive days and at least 30 days must elapse between the granting of each permit.
  - b. Only one seasonal sign permit will be granted per business per calendar year.
  - c. Temporary or seasonal signs relating to merchandise, services or activities shall be no more than 24 square feet in area.
  - d. Street banner signs shall maintain a clearance of at least 14 feet above street level but in no case shall the total height of the banner sign exceed 20 feet above street level.
  - e. One temporary sign no larger than 9 square feet may be erected annually on a residential lot. Such signs may not advertise or promote merchandise, services or commercial activities.
35. Sign Plans for Special Events
  - a. An individual, non-profit organization, business or governmental agency desiring special or additional signage for informational and/or directional purposes 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 signage no later than 20 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 the number, dimensions, content and placement of all such signs proposed for the event, as well as lighting and descriptions of materials to be used. With the exception of number and sizes of such signs, all other provisions of this SECTION must be met.

c. 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 20% of individual sign faces.

G. 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, 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 (10) 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 20 feet of a public right-of-way.
  - b. Side and rear yard fences may not be located within 20 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 20 feet from any public right-of-way.
  - 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.

#### H. 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 photometrics;
  - c. a site plan indicating the proposed location of the outdoor lighting fixture; and
  - d. signature of applicant.
4. Fees: The lighting permit fee shall be paid by owner or owner's authorized representative at the time of filing said Application.

5. Time Limit: The Planning Officer may approve or disapprove the Application for lighting permit within ten (10) 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 15 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 which 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 percent 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 25 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 15 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 ½ hour 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 30 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 10 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 10 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:
  - a. Street lighting, and traffic control signals and devices erected by the Village;
  - b. Temporary emergency lighting;
  - c. Seasonal decorations; however, spotlights and floodlights shall not be utilized in such decorations; and
  - d. 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.
9. 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 20 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.

10. 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 20 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 3 days following the last day of the event.

11. 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 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.

I. Demolition Permit.

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

J. Tree Cutting Permit

A tree cutting permit shall be required for the cutting of any tree greater than 12 inches in diameter or for more than 4 trees less than 12 inches in diameter and greater than 4 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.

K. 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 which is at least twenty-one (21) 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 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 15 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 5 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.

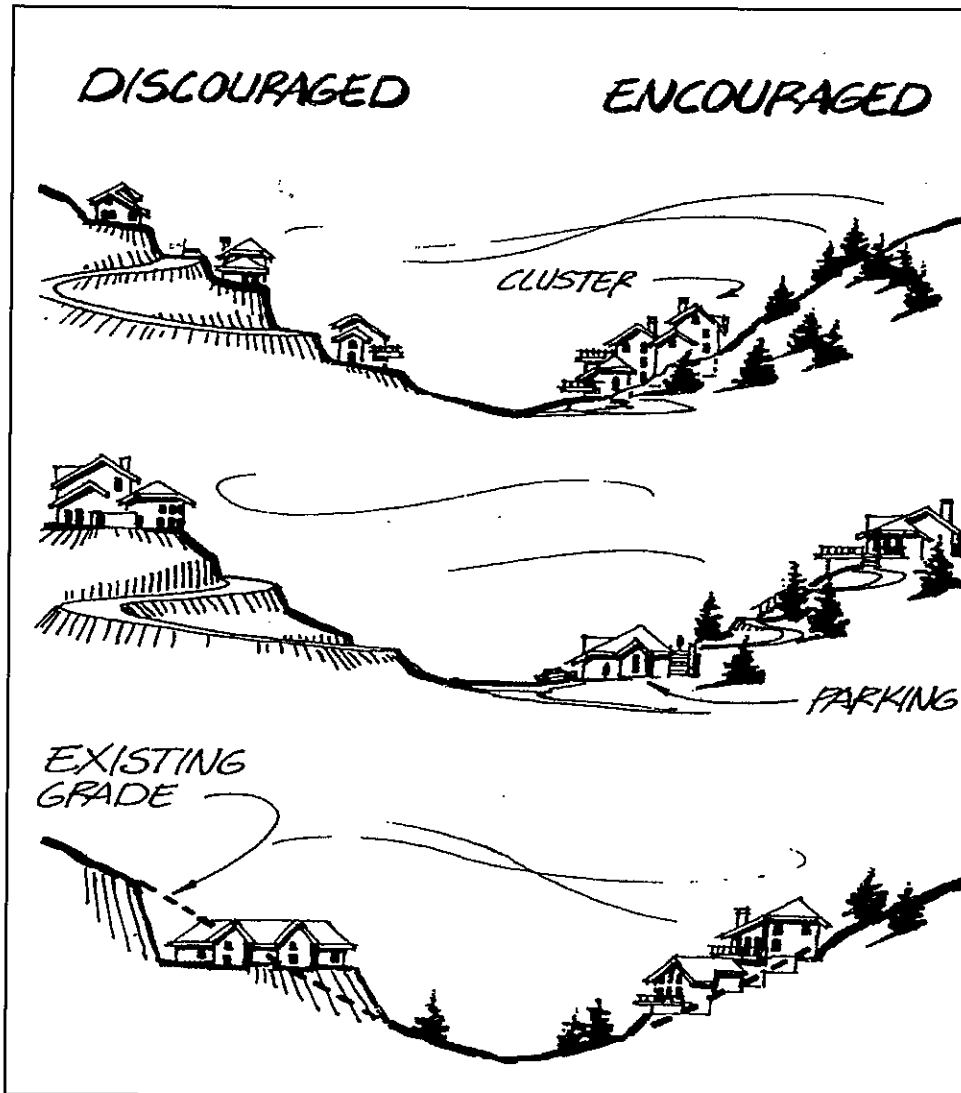
**SECTION 9. DESIGN STANDARDS**

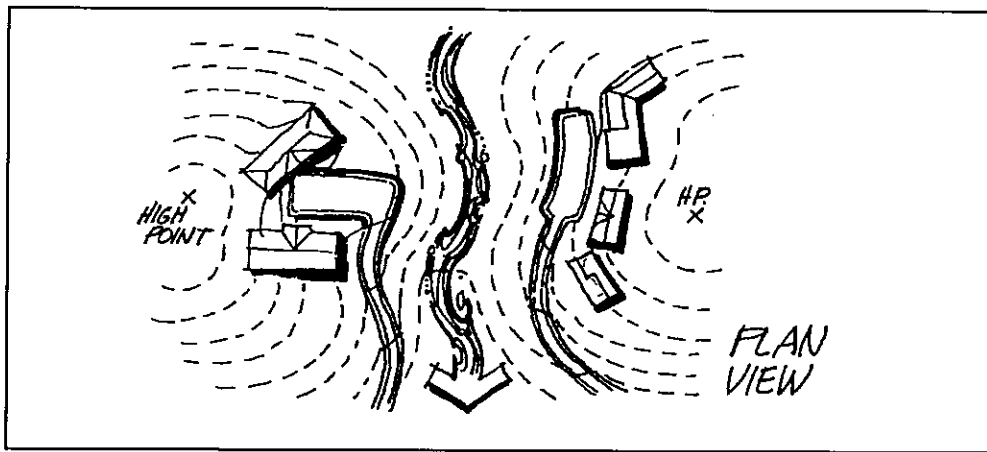
A. Site Design. Site design or site planning shall fit the buildings or other structures into the landscape in such a way that leaves the natural features of the site intact and functional, and screen undesirable uses and structures from public view with native landscaping.

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 fifteen percent (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.





6. **Retaining Walls.** The purpose and the intent is to ensure that the application of 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 which 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 wall's appearance. Downhill sides of retaining walls shall also be landscaped in order to help screen the structure.
- B. **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 it's natural surroundings as much as possible. Buildings should be designed to complement natural land forms 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. Ridge lines shall not be compromised by grading 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.

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.

C. 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. The indigenous material of the surrounding mountains should be conveyed by integrating heavy timbers, natural siding materials and rock into the building design. If structure is less than five (5) 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:
  - Pueblo style
  - Geodesic dome structures
  - Colonial.
  - 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.

D. 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 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 which do not cause glare.

- E. 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.
- F. 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.
- G. 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.
- H. Satellite Dishes. Satellite dishes should be the minimum size possible. Large dishes are strongly discouraged.
- I. Propane Tanks: Propane tanks shall be shielded from public view or placed underground.

**SECTION 10. ESTABLISHMENT OF ZONES.**

- A. 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
(CBC)	Commercial/Business –Core
(R)	Residential
(S-U)	Special Use
(OZ)	Overlay zone

- B. 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 center line if the public right-of-way is vacated.

- C. 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.
- D. 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. Appropriate zoning shall be designated by the Council following a review and recommendation made by the Commission.

## SECTION 11. R – RESIDENTIAL ZONE.

- A. 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.
- B. Permissive Uses. Any of the following Permissive Uses are allowed in this zone district.
1. One Single-Family Dwelling;
  2. One Auxiliary Unit;
  3. 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.;
- C. Conditional Uses.
1. Multi-family dwellings: Apartments, Bed and Breakfasts not larger than five (5) guestrooms, Condominiums, and other multi-family dwellings, provided that there are not more than three (3) 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 percent 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 2.5 square feet.
  4. Modular or manufactured home.
  5. Temporary buildings.
- D. Supplementary Regulations.
1. Setbacks: Minimum Setback requirements are as follows:
    - a. front yard: 25 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: 20 feet with the first 10 feet from the building cleared to firewise standards or 15 feet if the 15 feet are cleared to firewise standards.
    - c. side yards: 20 feet with the first 10 feet from the building cleared to firewise standards or 15 feet if the 15 feet are cleared to firewise standards.
    - d. any set-back 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 (20) 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 (15) feet from the high water mark, whichever is greater.
  - g. the setback from a spring source shall be one hundred (100) feet.
  - h. the setback from a wetland shall be fifteen (15) feet.
  - i. the setback from an intermittent stream shall be ten (10) feet.
2. Each applicant shall submit an Application for Certificate of Compatibility, Section 8E, 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 service is provided by the Village, 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 19.
  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.

**SECTION 12. C-B AND CBC COMMERCIAL/BUSINESS AND COMMERCIAL BUSINESS-CORE ZONES.**

A. 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.

B. 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.

C. 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.

D. Supplementary Regulations.

Applicants shall meet the supplementary regulations listed in Section 12, Supplementary Regulations, except that:

1. Front yard setbacks shall not be less than five (5) feet.
2. Landscaping shall be designed and installed in accordance with a landscape plan prepared by a qualified professional and approved by the Village; and
3. Exterior lighting must be designed by a qualified professional and approved by the Village.
4. No building or structure shall exceed 35 feet in height; as a conditional use in the area identified as the Village Core on the Village Zoning Map, no building or structure shall exceed 45 feet in height measured in the manner as in the definition of Building Height.

### **SECTION 13. S-U SPECIAL USE ZONE.**

- A. 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 same as in the C-B and CDC ZONES. Special conditions may be imposed by the Council upon recommendation by the Commission. 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.
- B. 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. That area delineated by such discontinued Special Use Zone shall be rezoned to the prevailing surrounding zone as determined by the Council following recommendation by the Commission.
- C. 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. The proposed shopping center shall be in conformance with the Comprehensive Plan;



- d. 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.
  - e. 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.
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 as per Section 10.D.5.; and
  - e. Solid waste disposal facilities must be provided and screened.
4. 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 14. ADULT ENTERTAINMENT.**

- A. Intent. This zone allows, on a conditional basis, entertainment activities which require special consideration because of their effect on surrounding property and the general health, safety and welfare of the community.
- B. Conditional Uses:
  - 1. All uses permissive in the C-B and CBC zones;
  - 2. Adult Amusement Establishment;
  - 3. Adult Bookstore;
  - 4. Adult Photo Studio;
  - 5. Adult Theater;
  - 6. Adult Video Store.
- C. Supplementary Conditions. Conditions which must be met for conditional approval for an adult amusement establishment, adult bookstore, adult photo studio, adult theater or adult video store:

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. Supplementary regulations given in Section 12 must be met by applicant.

#### **SECTION 15. FARMING AND RECREATION.**

- A. Intent. This zone permits multiple uses of the land for a variety of purposes.
- B. 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.
- C. 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.
- D. 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 16. OVERLAY ZONES**

- A. 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.
- B. 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 (4) acres.
- b. Density. No more than four (4) mobile homes may be located on one (1) acre.
- c. Setback Requirements. For each mobile home unit, the lot on which it sits must be on an area not less than sixty (60) feet in width and sixty (60) 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 (25) feet. Spacing between each unit shall not be less than twenty-five (25) 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 (24) feet in width and have a snow storage easement of at least twenty (20) feet on each road.
- e. Off-Street Parking. There must be at least two (2) 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.

C. 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.

D. 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 17. INDUSTRIAL ZONE**

A. 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.

B. 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.

C. 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 in violation of these provisions by the subsequent location of any of the uses described above.
3. Any adult entertainment use shall not be located within five hundred feet of an existing residential zone.

D. Supplementary Regulations

1. Minimum Lot Area: 10,000 Sq. Ft.
2. Minimum front yard setback will be 20 feet, side and rear setbacks will be 10 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 F shall apply.
5. Parking: The provisions of Section 20 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 18 shall apply as appropriate.

**SECTION 18. TERRAIN MANAGEMENT AND LANDSCAPING**

A. 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.

B. 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 xeriscape 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.
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.

C. 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.

D. 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.

E. 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 piled and stacked for a reasonable length of time to be determined by the 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 19. OPEN SPACE**

A. **Purpose.** 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.

B. **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.

C. **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.

D. **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 a open space in perpetuity.

E. **Use in Perpetuity of Natural Open Space**

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.

F. 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.

G. Maintenance

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 20. OFF-STREET PARKING AND LOADING.**

- A. 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 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.

- B. Required Parking Spaces. The minimum number of parking spaces to be provided shall be as follows:
1. Clinics: 1 space per doctor.
  2. Clubs: 1 space per 3 members plus one space for every 5 employees each shift.
  3. Dwellings, Single-Family Residential: 2 spaces per dwelling unit, to a maximum of 3 spaces, plus one place for any auxiliary unit.
  4. Dwellings, Multi-Family:
    - a. Village core area (as delineated on Village Zoning Map): 1 space per dwelling unit plus one ADA parking space for every unit which is ADA accessible and/or fitted.
    - b. Outside Village core area: 2 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: 1 space per 300 square feet of public area plus one space per every 5 employees per shift.

6. Hotels and motels: 1 space per each two units and 1 space per 2 employees per shift.
  7. Offices, retail, and service establishments: 1 space per 500 square.
  8. Places of public assembly: 1 space per 4 seats when fully occupied.
  9. Shopping Centers: one space per 500 square feet of public area.
- C. 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 30 feet wide and residential shall be 20 feet wide at the entrance to facilitate vehicular turning into parking area;
  3. Each parking space shall consist of an area not less than 9 feet by 20 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.
- D. Landscaping. 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. Where off-street parking is provided, the visual impact should be minimized by providing screening wherever possible. This may be in the form of hedges, fences, earth berms, or other landscaping elements. Snow removal shall be considered in the design.

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 21. DEVELOPMENT IMPACT FEES**

### A. 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 DIFs and administering the Development Impact Fee program.



B. Applicability

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.

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

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:

1. Determine and distinguish between existing deficiencies and projected new development needs.
2. Inventory existing public facilities.
3. Identify the level of service standard applicable to each of the inventoried public facilities.
4. Identify the level of service standards upon which the DIF is to be based.

D. Notice and Hearing Required for Establishing or Increasing Development Impact Fees

1. The Village shall provide at least thirty (30) 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 (30) day notice of intention to assess a new or increased DIF and at least fourteen (14) 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 (90) days after its formal adoption by the Village Council.

E. 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.

F. Administration of Development Impact Fee Program

Section 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. Development impact fees shall be collected by the Village 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.

Section 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.

Section 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.
- 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 20 of the Zoning Ordinance. The refund shall be paid to the party who owns the property at the time the refund is made.

G. Development Impact Fee Credits

Section 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 (i) 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 (ii) 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;
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 (60) days after receipt of an application for credit from a developer.

Section 2. Development Impact Credits for Construction of Public Improvements.

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.

Section 3. Development Impact Fee Credits for Dedication of Property.

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.

Section 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.

Section 5. Recording of Credit Allocations; Time Limits on Applicability of DIF Credits.

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.

Section 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 (60) 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.

Section 7. Development Impact Fee Credits Non-Transferable.

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.

H. Appeals and Refunds

Section 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 (30) 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 authorization for an agent.
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 (45) 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 (5) 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.

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.

Section 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 (5) years after payment of the fee.

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 (10) 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.

I. 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.

J. Current Development Impact Fee Schedule

As of July 1, 2009 the following development impact fees are applicable in the Village:

Section 1. Emergency Medical Services (EMS) Impact Fee

\$0.018 per square foot

Section 2. Fire Department Impact Fee

\$0.578 per square foot

Section 3. Roadway/Pedestrian/Drainage Impact Fee

Central Business District- \$0.671 per square foot

Kachina District- \$0.777 per square foot

Section 4. Law Enforcement Impact Fee

\$0.017 per square foot

Section 5. Parks and Recreation/Open Space Impact Fee.

\$0.046 per square foot

Section 6. General Government Facilities and Equipment Impact Fee.

\$0.851 per square foot

Section 7. Calculation of Cumulative Development Impact Fee.

For purposes of clarification, and not in addition to the foregoing, the following cumulative development impact fees are established by the Village:

Central Business District- \$2.18 per square foot

Kachina District- \$2.28 per square foot

Impact fees may be changed on an annual basis by resolution of the Village Council as provided herein.

## **SECTION 22. CODE ADMINISTRATION.**

- A. 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.
- B. 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.
- C. 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.
- D. 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 Capability Applications
  9. Fencing Permit Applications;
  10. Sign Permit Applications;

11. Light Permit Applications;
  12. Special Use Permit Applications;
  13. Zoning Violations.
  14. Demolition Permit Applications.
  15. Tree Cutting Permits
- E. 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 30 days following the date of notification or require the person responsible to show within 15 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 23. VARIANCES.**

- A. 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 (5');
    - 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 (3') 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.
- B. 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 (20) 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 a hearing officer. 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 (30) 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 Hearing Officer.
  3. Variances not deemed granted by the Planning Officer shall be heard by a Hearing Officer at a public hearing.



4. The Planning Officer shall transmit the application and any supplementary information to the Hearing Officer for public hearing at a time mutually convenient to all parties, but in no event later than 45 days from the date it was referred to the Hearing Officer.
  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 15 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 5 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 Hearing Officer shall see that the parties are afforded procedural due process. Upon conclusion of the Public Hearing and within twenty (20) days of the closure of the record, the Hearing Officer 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 chair of the Planning and Zoning Commission to be placed on the agenda of the next commission meeting that is scheduled more than fifteen (15) days after the filing of the recommendation. The commission will then hear the matter as an appellate body.
- C. 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.
- D. 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 24. CONDITIONAL USE PERMIT.**

- A. 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.
- B. 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 (21) days to review the application and request any additional information.
  2. The Planning Officer shall transmit the application and any supplementary information to the Hearing Officer at a time mutually convenient to all parties, but in no event later than 45 days from the date it was referred to the Hearing Officer. 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 15 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 conditional use. The applicant is responsible for removing such signs within 5 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 Hearing Officer shall see that the parties are afforded procedural due process. Upon conclusion of the Public Hearing and within twenty (20) days of the closure of the record, the Hearing Officer 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 chair of the Planning and Zoning Commission to be placed on the agenda of the next commission meeting that is scheduled more than fifteen (15) days after the filing of the recommendation. The commission will then hear the matter as an appellate body.
- C. 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.
- D. 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.
- E. 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, an application for renewal of the Conditional Use must be approved by the Commission. 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.

#### **SECTION 25. NONCONFORMING USES.**

- A. Definition. Within the zones established by this Ordinance, or amendments that may be adopted, there exist Lots, Structures, and Uses of land and Structures which 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.
- B. 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 30 days after the date of notification. All Nonconforming Uses within the jurisdiction of the Ordinance shall be issued Certificates of Nonconformance upon determination of a Nonconforming Use by the Planning Officer.
- C. 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.
- D. 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 26. AMENDMENTS.**

- A. Amendment. The Council may amend any of the regulations, zones, or zone boundaries established by this Ordinance.
- B. 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. An application may be initiated by the Planning and Zoning Commission or the Council acting on behalf of the community at large.
- C. 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 3 feet high and large enough to receive the form. The sign shall be placed in such a location that it can readily be viewed from the nearest roadway.
- D. 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.
- E. Public Hearing. The Planning Officer shall transmit the application and any supplementary information to the Hearing Officer at a time mutually convenient to all parties, but in no event later than 45 days from the date it was referred to the Hearing Officer. 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 Hearing Officer shall see that the parties are afforded procedural due process. Upon conclusion of the Public Hearing and within twenty (20) days of the closure of the record, the Hearing Officer 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 (15) 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.

- F. Notification by Mail. Notice of the time and place of the public hearing shall be published at least 15 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 27. APPEALS.**

- A. Right of Appeal. Any person aggrieved by an interpretation, decision or action of the Planning Officer in carrying 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. If the Council's decision is adverse to the appellant, the appellant may appeal to District Court as provided by law. 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.

- B. 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 zoning Officer. Any appeal not submitted within 15 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 7 days after the receipt of the appeal application.
- C. Public Hearing. The decision on an appeal shall be made by the Commission or Council following a public hearing before a hearing officer as set out herein above. Notification of the time and place of the public hearing shall be published at least 15 days prior to the hearing. The Planning Officer shall notify the applicant, members of the Commission, and a representative of the opponents, if any, of the hearing date.

- D. 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.
- E. Decision. An appeal shall be decided within 3 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 a recommendation made by the Hearing 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 recommendation of the Hearing Officer, findings of fact and conclusions of law shall be adopted. If the recommendation of the Hearing 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 Hearing Officer

#### **SECTION 28. FILING FEES.**

- A. 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.
- B. Fees. Filing fees will be established by the Village Council.

#### **SECTION 29. 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 30 days shall be prosecuted and treated as a separate offense.

#### **SECTION 30. REPEALER.**

The Interim Zoning Ordinance, Ordinance 97-16, and Ordinance 98-30, Ordinance 05-30, and Ordinance 07-30 are hereby repealed.

#### **SECTION 31. 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.

#### **SECTION 31. 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 3rd day of November, 2009

The Village of Taos Ski Valley, New Mexico

By: Neal King

Mayor Neal King

ATTEST: Vanessa N. Chisholm

Vanessa N. Chisholm, Village Clerk-Treasurer

Vote: For 4 Against 0