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**VILLAGE
ADMINISTRATOR:**
Bruce A. Kelly, Esq.

CLERK/TREASURER:
Vanessa N. Chisholm

Certified No. 70060100000729968201

January 19, 2011

John D'Antonio
New Mexico State Engineer
P. O. Box 25102
Santa Fe, NM 87504-5102

Re: Village Ordinance No. 04-38

Dear Mr. D'Antonio,

Enclosed for filing, pursuant to the decision in Stennis v. City of Santa Fe, Court of Appeals No. 2010-NMCA-108, is a certified copy of the Village's Ordinance restricting the drilling of water wells within the jurisdiction of the Village. If you have any questions, please feel free to call or write. Thank you.

Sincerely,

Bruce A. Kelly,
Village Administrator

Linda Gordon
file 01701-A

RECEIVED

JAN 21 2011

OFFICE OF THE STATE ENGINEER

THE VILLAGE OF TAOS SKI VALLEY

ORDINANCE NO. 04-38

AN ORDINANCE ADOPTING REGULATIONS FOR WATER USE WITHIN THE VILLAGE OF TAOS SKI VALLEY

BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF TAOS SKI VALLEY (hereinafter "the Village"):

SECTION 1. GENERAL PROVISIONS

SECTION 1-1. TITLE

This ordinance shall be known as the Water Use Ordinance of the Village of Taos Ski Valley and shall be referred to herein as "this Ordinance."

SECTION 1-2. JURISDICTION

The provisions of this Ordinance are applicable to all lands within the Village of Taos Ski Valley on which water is used.

SECTION 1-3. PURPOSE

The purpose of this Ordinance is to preserve and protect the environmental quality of the potable water within the Village by limiting and decreasing the use of private wells and springs and encouraging the citizens of the Village to connect to the Village's municipal water system, thereby reducing the potential of ground water source pollution within the Village.

SECTION 1-4. PLANNING

The Village shall develop a plan to extend its water lines so that all lands within the Village have water available to them through the municipal water system subject to the Village's connection charges.

SECTION 1-5. TRANSFER OF WATER RIGHTS AND CONNECTION CHARGES

The Village shall adopt by resolution a plan for the transfer of water rights to the Village upon a new use connection to the Village's municipal water system in amounts based upon the projected water usage of the land or structure being connected to the system. The Village shall also adopt by resolution connection charges, line extension charges and rates for water usage.

SECTION 1-6. CIRCUMSTANCES REQUIRING CONNECTION TO THE VILLAGE'S WATER SYSTEM

The owner, agent in charge or occupant of any building on a lot or land whose property line is located within 300 feet of the Village's water distribution line and whose lot or land is located within the exterior boundaries of the Village shall connect such building or lot if water is used on the lot to the Village's water distribution line unless the cost of extending the municipal water distribution line to the property line, the installation of a meter and the Village's hook-up charges exceeds the cost of drilling a new domestic water well. For new construction, the connection must be made before a Certificate of Occupancy is issued.

SECTION 1-7. CIRCUMSTANCES WHICH ALLOW THE USE OF A DOMESTIC WATER WELL

In those situations where an owner, agent in charge or occupant of a building on a lot or land whose property line is more than 300 feet from the Village's municipal water distribution line or, where the owner, agent in charge or occupant can demonstrate that the cost of connection exceeds the cost of a domestic well may apply for a domestic water well permit from the Village after having received approval for such a well from the New Mexico State Engineer's Office. Said application for a permit shall be acted upon within 30 days of its receipt. Any well must be constructed pursuant to health and safety guidelines adopted by the Village.

SECTION 1-8. EXISTING WELLS AND SPRINGS

All existing lands or structures currently using water from a domestic water well or spring must, upon the failure of the spring or the failure of the well, connect to the Village's water system unless the Village declines to extend its water distribution line to within 300 feet of the property line. Upon connection to the Village's distribution line, all connections to the well or spring will be disconnected and the well capped or the infiltration gallery closed by the Village at the Village's expense. For purposes of disconnecting from the well or spring, the Village shall have access to the property at all reasonable times. It shall be a violation of this Ordinance to use the water from the capped well or the closed infiltration gallery. All current wells and springs must meet the health and safety guidelines adopted by the Village.

SECTION 1-9. RESTRICTIONS ON WATER CONNECTIONS, METERS REQUIRED

No new or existing private well or spring shall be connected in any way to the Village's municipal water system. Any new or existing private well or spring furnishing water to a building within the Village limits which is connected to the Village sewer system must have a meter installed by the Village to provide accurate meter readings of the water introduced into the building. The Village shall have the right of access at all times to inspect and read the meter. The cost of installing the meter shall be borne by the owner, agent in charge or occupant of the building using the well or spring.

SECTION 1-10. REQUIREMENT FOR PERMIT TO CONNECT

A. No person shall tie into, make installation with or in any way connect to the water lines of the Village without first paying the connection charges as required in this Ordinance and obtaining the required connection permit from the Village Administrator.

B. Permits shall be issued in the name of the owner of the property which is to be connected, but no person shall tie into, make installation with or in any way connect to the water lines of the Village unless the person or agent holds an appropriate license issued by the New Mexico Construction Industries Division.

C. It is a violation of this Ordinance for any person to connect with a Village water line without first obtaining the required permit or to do or have it done by a person who is not licensed therefor by the New Mexico Construction Industries Division.

SECTION 2. APPLICATION PROCEDURE

SECTION 2-1. APPLICATION

A. Applications for municipal water services or domestic well permit may be obtained at the Village office. The completed application for municipal water services or domestic well permit shall be submitted to the Village Administrator who shall approve or disapprove such application as provided in this Ordinance.

B. The application shall contain the following information:

- (1) Name of user;
- (2) Address of user;
- (3) Nature and extent of proposed annual use of municipal water services by the use or the amount of water to be used under the well permit;
- (4) Nature and extent of water rights to be transferred by the user to the Village in exchange for approval of application for municipal water services.

SECTION 2-2. APPROVAL OR DISAPPROVAL

The Village shall approve or disapprove each new application for municipal water services or domestic well permit in accordance with this Ordinance and rules and regulations that may be adopted from time to time by the Village.

SECTION 2-3. NOTICE OF DECISION ON APPLICATION

The Village shall decide to approve or disapprove the application for municipal water services or domestic well permit within thirty (30) days of submission of such application and shall immediately transmit its decision to the applicant by United States mail.

SECTION 2-4. DISAPPROVAL OF DOMESTIC WELL PERMIT

If an application for a domestic well permit is disapproved, the Village shall notify the New Mexico State Engineer and shall then provide water services within ninety (90) days to the property line. The cost of extending the line shall be borne by the Village unless the reason for the disapproval was that the property line was within 300 feet of the water distribution line and the cost of extending the line, installing the meter and the hook-up charge did not exceed the cost of drilling a domestic well.

SECTION 2-5. VILLAGE'S RIGHT TO REFUSE OR SUSPEND

The Village may refuse or suspend the furnishing of municipal water services when the Village Administrator determines such action will provide for the safety or preserve the health or protect the property of municipal citizens. The user may request a hearing pursuant to Section 3 herein within ten (10) days after receiving notice of refusal or suspension of water services. During the pendency of the hearing and any appeal (if necessary), the refusal to provide water services or the suspension of the furnishing of water services shall remain in effect until the decision is reversed on appeal or the administrator no longer determines that the suspension or refusal is necessary to provide for the safety, preserve the health or protect the property of municipal citizens.

SECTION 3. HEARING REQUESTS

SECTION 3-1. GENERALLY

Any person whose application for municipal water services has been disapproved, whose domestic well permit has been denied or who is aggrieved by the application of Section 2-5 above may request a hearing as specified in this section.

SECTION 3-2. PROCEDURE

Any person requesting a hearing shall deliver a request for that hearing, in writing, to the Village Administrator for a hearing before the Public Works Committee within ten (10) days of receipt of the decision disapproving an application or a domestic well permit. The Village shall give the person requesting the hearing notice of the time and place of such hearing at least five (5) days before such hearing. All notices shall be in writing and shall be deemed to have been given and received after the notices shall have been deposited in the United States mail, postage prepaid, and addressed to the user at the address contained on his application. The Public Works Committee shall render its decision within five (5) days after the hearing and shall immediately give notice of such decision to the user.

SECTION 3-3. FURTHER APPEAL TO THE VILLAGE COUNCIL

The decision of the Public Works Committee may be appealed to the Village Council by a written request delivered to the Village Administrator not later than ten (10) days from the date of the Public Works Committee's decision. The Village Council shall hold a hearing on the appeal within thirty (30) days from the date of the filing of the appeal. Notice of hearing shall be given to the user at least five (5) days prior to such hearing. The Council shall render its decision within five (5) days after hearing the appeal and shall immediately give notice by mail of such decision to the user.

Appeal from the Village Council's decision shall be to the Eighth Judicial District Court in the manner provided by law.

SECTION 4. PENALTIES

SECTION 4-1. PENALTIES AND REMEDIES FOR VIOLATION OF ORDINANCE

A. Penalties; continuing violations. Every person convicted of a violation of this Ordinance shall be punished as provided by law. The conviction and punishment of any person for a violation shall not excuse or exempt such person from the payment of any fee due or unpaid at the time of such conviction and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this Ordinance.

B. Remedies cumulative; liens. All remedies prescribed or liens created under this Ordinance or under the provisions of the law for collection and enforcement of the fees shall be cumulative and the use of one or more remedies by the Village shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Ordinance created by the law. The fees authorized by this Ordinance shall be a lien in favor of the Village upon the real property served and the personal property of the person used in connection with the water use which gave rise to the fee, and such lien shall be imposed, collected, enforced and paid as provided by the law. No property of any persons shall be exempt from levy and sale on execution issued for the collection of a judgment for any fee imposed by this Ordinance.

C. Disconnection of service. Water service may be cut off when any act or omission in regard to the water system or a sewer system (public or private), the use of water or the disposal of liquid wastes jeopardizes the public health or safety, creates a public nuisance or interferes with the rights of others. For repeated violations of this Ordinance, the Village may disconnect the violator's building sewer and water service and refuse to provide water and/or sewer service to the violator until assurances satisfactory to the Village are provided by the violator that such violations shall cease.

SECTION 4-2. EFFECTIVE DATE


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

Passed, Approved and Adopted this 11th day of November, 2003.

Vote: For 4 Against 0



Mayor

Attest:


Village Clerk



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**VILLAGE
ADMINISTRATOR:**
Bruce A. Kelly, Esq.

CLERK/TREASURER:
Vanessa N. Chisholm

I hereby certify that the foregoing is a true and correct copy of Ordinance 04-38 of the Village of Taos Ski Valley.

Village Deputy Clerk

