



VILLAGE OF CORRALES

ORDINANCE NO. 15-06

**AN ORDINANCE AMENDING ORDINANCE NO. 06-03
ADOPTED OCTOBER 24, 2006, AS AMENDED BY ORDINANCE
NO. 09-004 ADOPTED MAY 19, 2009 AND BY ORDINANCE NO.
09-017 ADOPTED DECEMBER 1, 2009; PROHIBITING
OBSTRUCTION OF REQUIRED WATER CONVEYANCE OR
WATER STORAGE STRUCTURES ON ANY LANDS, PUBLIC OR
PRIVATE; REQUIRING PROPER MAINTENANCE OF REQUIRED
WATER CONVEYANCE AND WATER STORAGE STRUCTURES
ON PRIVATE LANDS; ESTABLISHING PENALTIES FOR
VIOLATION.**

WHEREAS, the Governing Body finds that there is a significant and ongoing problem with encroachment into and placement of obstructions such as walls, fences, landscaping, rocks, trees, and shrubbery in arroyos, drainage channels, retention and detention ponds, bar ditches and other structures for the management of storm water, on both public rights of way and private lands in various parts of the Village; and

WHEREAS, the Governing Body is reliably informed that such obstructions in arroyos, drainage channels, retention and detention ponds, bar ditches and other natural channels and structures for the management of storm water have contributed to flooding and damage to both public and private property during rainfall events in recent years, in particular during the summer of 2013 and the summer of 2014 and also in prior years such as 2006; and

WHEREAS, to ensure the public health, safety and welfare and the protection of property in the Village, the Governing Body finds that unauthorized obstructions in arroyos, drainage channels, retention and detention ponds and other water conveyance and storage facilities, wherever located, must be prevented to ensure the safety of the public and the protection of property, both public and private; and

WHEREAS, the Governing Body further finds that failure to adequately maintain water conveyance channels and water storage structures on private lands, where such maintenance is the responsibility of the landowner or of other private party (including homeowners associations) has contributed to flooding and is likely to cause flooding and damage in the future; and

WHEREAS, the Governing Body finds that to ensure compliance with the provisions of this Ordinance appropriate penalties should be imposed for unauthorized obstruction of or failure to maintain water conveyance and storage facilities.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that Chapter 18, Article V of the Code of Ordinances of the Village of Corrales (Terrains and Storm Water Management), being Ordinance No. 0t6-03 adopted on October 24, 2006, as amended by Ordinance No. 09-004 adopted on May 19, 2009 and by Ordinance No. 09-017 adopted on December 1, 2009, is amended as follows:

1. **Subsection 18-161(a)** is amended to read:

- (a) The requirements of this article shall apply to all lands within the Village that are located west of the Corrales Main Canal. The requirements of this article shall also apply to new development and redevelopment projects that disturb greater than or equal to one acre, including projects disturbing less than one acre that are part of a larger common plan of development that in total will disturb an area greater than or equal to one acre, regardless of location in the Village. The provision of Section 18-172 apply throughout the Village.

2. **Subsection 18-162** is amended by insertion of the following definition, in appropriate alphabetic order:

Ten (10)-year flood or ten (10)-year frequency flood means the flood having a ten percent (10%) chance of being equaled or exceeded in any given year.

3. The following **Section 18-172** is added following Section 18-171:

Section 18-172. Obstruction of water conveyance or storage structures prohibited.

(a) *Water conveyance channels and water control structures to be kept clear of obstructions.* No person or entity shall erect or cause to be erected or place or cause to be placed any fence, wall, building, structure, stand or object, nor shall any person or entity deposit or cause to be deposited any trees, timber, gravel, rock, leaves, weeds, sod, brush, waste, rubbish, construction materials or other material within any water conveyance channel or water storage structure located on any public land within the Village, nor within any water conveyance or water storage structure on private land that is required to be constructed, installed, preserved or maintained pursuant to any ordinance, rule or regulation of the Village or any other governmental body. All such water conveyance channels and water storage structures shall at all times be kept free of mud, sediment, detritus, debris, vegetation or any other material of any sort that could interfere with the flow or storage of water in such structure during regular use or after any precipitation event. For purposes of this Section, the term “water conveyance channel” shall include any natural or constructed water channel or arroyo that conveys flood waters during a 10-year flood.

(b) *Landowner responsibility.* Where a water conveyance channel or water storage structure on private land is required to be installed, constructed or maintained pursuant to a Village ordinance, rule, regulation or permit, including but not limited to a development review permit, site development plan, special use permit, subdivision

approval, or any other land use permit or approval of the Village, the landowner or other responsible party shall maintain the structure free of encroachments, mud, sediment, detritus, debris or vegetation, and shall remove or cause the removal of any mud, sediment, detritus or debris that may have accumulated in the structure within fifteen (15) calendar days following the accumulation thereof.

(c) *Penalties and correction of violations.*

- (1) *Penalty for violation.* Any person who violates any provision of this Section 18-172 shall be subject to punishment in accordance with Section 1-6. Each day that a violation continues after notification by the Village requiring correction thereof shall constitute a separate offense.
- (2) *Village correction of violation; recover of costs.* In the event that a landowner after notification by the Village fails to correct any violation under this Section 18-172, or if the immediate correction of any such violation is necessary to protect the public health, safety or welfare or to avoid an imminent threat of injury or damage to persons or property, the Village in its sole discretion may undertake to correct or cause the correction of the violation on either public or private property, with or without the permission of the owner thereof. In any such case, the Village may require that the property owner or owners responsible for the violation reimburse and make the Village whole for the costs incurred by the Village to correct the violation.
- (3) *Option to seek injunctive or other relief.* In addition or as an alternative to any penalty or requirement of reimbursement imposed or required under Section 18-172(c)(1) or 18-172(c)(2), the Village may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to enjoin the violation of, any provision of this Section 18-172, and in such action may seek further to recover the Village's costs, including costs of litigation and attorney fees, incurred as a result of the need to maintain such action or proceeding.

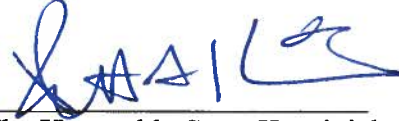
SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE: This Ordinance shall be incorporated in and compiled as a part of the Code of Ordinances of the Village of Corrales.

EFFECTIVE DATE AND PUBLICATION: This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

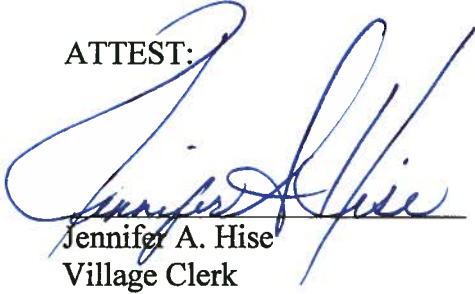
PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 24th day of February, 2014.

APPROVED:

A handwritten signature in blue ink, appearing to read 'Scott Kominiak', written over a horizontal line.

The Honorable Scott Kominiak
Mayor, Village of Corrales

ATTEST:

A handwritten signature in blue ink, appearing to read 'Jennifer A. Hise', written over a horizontal line.

Jennifer A. Hise
Village Clerk