



VILLAGE OF CORRALES

ORDINANCE NO. 16-014

AN ORDINANCE RELATING TO PERSONS ENGAGED IN BUSINESS IN THE VILLAGE OF CORRALES; AMENDING CHAPTER 10, ARTICLES II AND III OF THE CODE OF ORDINANCES OF THE VILLAGE (BEING ORDINANCES NO. 246 AND NO. 187, RESPECTIVELY); AMENDING THE REQUIREMENTS FOR BUSINESS REGISTRATIONS, VENDOR LICENSES AND FEES; PROVIDING FOR AND REGULATING MOBILE VENDING UNITS, INCLUDING MOBILE FOOD UNITS; PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, by Ordinance No. 187, adopted March 28, 1988 and codified as Article III of Chapter 10 of the Code of Ordinances of the Village of Corrales (the "Village"), the Village Council, the governing body of the Village ("Governing Body") established standards, license requirements and fees for vendors operating from stands and mobile units in the Village; and

WHEREAS, by Ordinance No. 246, adopted May 12, 1992 and codified as Article II of Chapter 10 of the Code of Ordinances of the Village, the Governing Body adopted requirements for business registration and fees as authorized by Sections 3-38-1 through 3-38-6, NMSA 1978; and

WHEREAS, it has been brought to the attention of the Governing Body that the Village ordinances and regulations regarding business registration and license fees, including particularly those applicable to mobile vendors such as mobile food units, are not entirely clear and do not account for changes in industry and commerce, particularly mobile food vendors and mobile food units, since the adoption of Ordinances No. 187 and No. 246; and

WHEREAS, the Governing Body finds that the Code of Ordinances should be amended to better provide for clarity in the licensing and regulation of businesses, and particularly mobile vendors, in the Village.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that:

Section 1. Chapter 10, Article II of the Code of Ordinances of the Village of Corrales, being Ordinance No. 246, adopted May 12, 1992, is amended to read, in its entirety, as follows:

ARTICLE II. BUSINESS REGISTRATION

Section 10-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Engaging in business means operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade or pursuit for which the person conducting such business, profession, occupation, trade or pursuit is required to obtain a State taxpayer (CRS) identification number from the New Mexico Taxation and Revenue Department.

Person means any individual, male or female, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit or commercial activity.

Place of business means the premises within the Village, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. Unless a construction contractor has at least one permanent business location within the Village, "place of business" includes each and every construction site where the contractor is engaged in business within the Village. Unless a person engaged in the business of selling real estate has at least one permanent business location within the Village, "place of business" includes each and every parcel of real property listed by, offered for sale by, or sold by that person within the Village.

Separate business means a business located or conducted at the same address as another registered business, whether or not owned by the same person, that is additional to and different from the other registered business. A business will be considered a separate business if it has a different name and it is not so related to the other business as to be a component part of the other business.

Section 10-27. Penalty for violation of article.

Any person convicted of a violation of any provision of this article shall be guilty of a misdemeanor and shall be punished in accordance with Section 1-6. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 10-28. Application to do business.

(a) All persons proposing to engage in business within the municipal limits of the Village shall apply for and pay a business registration fee for each outlet, branch, or location within the municipal limits of the Village prior to engaging in business. For a mobile vendor or operator of mobile vending units, each mobile vending unit that operates in the Village shall be deemed to be a single outlet, branch, or location, notwithstanding that it may be operated at various physical locations in the Village during the registration period.

(b) Any person filing an application for issuance or renewal of any business registration shall include in the application his or her current New Mexico Taxation and Revenue Department CRS identification number or evidence of application for a current CRS identification number to be issued by the Taxation and Revenue Department.

Section 10-29. Imposition of fee.

There is imposed on each business outlet, branch or location within the Village an annual business registration fee of thirty-five dollars (\$35.00) for each calendar year. The fee is imposed pursuant to NMSA 1978, § 3-38-3, and shall be known as the "business registration fee." The business registration fee may not be prorated for business conducted for a portion of the year.

Section 10-30. Exemption from fee.

The Governing Body may by ordinance or resolution provide that businesses participating in a special event sponsored by the Village, but not otherwise engaged in business within the Village, may be exempted from the requirement to obtain a business registration or pay a business registration fee.

Section 10-31. Late fee.

There shall be imposed upon each delinquent registration fee a late fee in the amount of \$10.00 if a new business does not pay the registration fee before it commences business, or the annual renewal fee is not paid prior to March 16.

Section 10-32. Renewal.

Prior to March 16 of each year, any person with a place of business in the Village, and subject to this article shall apply for renewal of business registration with the Village Clerk's office. Business owners whose businesses are still in operation and have not renewed their business registration by April 1 of the current year may be cited into municipal court and, upon conviction, may be penalized as provided in Section 10-27.

Section 10-33. Enforcement.

In addition to the penalties provided for violation pursuant to Section 10-27, this article may be enforced by appropriate legal or administrative action brought to prevent the conduct of business in violation of this article, restraining, correcting, or abating the violation of this article or to prevent the occupancy of a building, structure or land on which the business is located, or to withhold the issuance of permits or inspections, as appropriate.

Section 2. Chapter 10, Article III of the Code of Ordinances of the Village of Corrales, being Ordinance No. 187, adopted March 28, 1988, is amended to read, in its entirety, as follows:

ARTICLE III. VENDORS

Division 1. Generally

Section 10-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food unit means any vehicle, truck, trailer, wagon, push cart or other unit that is moveable from place to place, whether or not self-propelled, and from which any person sells or dispenses food, beverages or any prepared food product intended for human consumption. The term *mobile food unit* does not include (i) vehicles engaged in the delivery of food, beverages and food products at wholesale to restaurants, bars, hotels, inns, retail food stores, event centers and similar enterprises, or (ii) vehicles engaged in the home delivery of dairy and agricultural products and other food, beverages and food products to regular retail customers on account and along established, regular delivery routes, or (iii) vehicles and operators making one-time deliveries of food, beverages or food products in response to a

specific request of the recipient.

Mobile food vendor means any owner or operator of a mobile food unit.

Public street or sidewalk means and includes all areas legally open to public use as public streets, sidewalks, pathways, roadways, highways, parkways, alleys, and any other public way.

Stand means any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device not exceeding one hundred (100) square feet in area and which is not required to be licensed or registered by the Motor Vehicle Division of the New Mexico Taxation and Revenue Department, used for the display, storage, transportation or sale of articles offered for sale by a vendor.

Vendor means any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk, or at any other location with the written permission of the owner thereof, from a stand, mobile food unit, or motor vehicle or from his or her person, or one who travels by foot, wagon, mobile food unit, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, goods or merchandise.

Section 10-57. Restrictions applicable to all vendors.

(a) *Obstruction or impedance of traffic prohibited.* No vendor shall, under any circumstances:

- (1) Obstruct or impede motor vehicle traffic, pedestrian traffic, emergency vehicle access, bicyclists or trail riders, or create any hazard by obstructing the view of motor vehicle traffic, bicyclists, trail riders or pedestrians, even if the vendor's stand, vehicle or merchandise is outside of the public right-of-way; or
- (2) Have any apparatus connected to or attached to a building, vehicle or stand which hangs over any public right-of-way or is less than seven (7) feet above any area designated, designed or intended for the passage of pedestrians; or
- (3) Obstruct or impede access to the entrance of any building or driveway; or
- (4) Come to a standstill or park for the purpose of conducting business on or within fifteen (15) feet of the pavement on Corrales Road (State Road 448) or Loma Larga Road; or
- (5) Come to a standstill or park for the purpose of conducting business for a period of more than ten (10) minutes at any particular location on or within the right of way of any public street other than Corrales Road and Loma Larga Road.

(b) *Locations and hours of operation.* A vendor holding an appropriate Village license for the vending activity shall be allowed to engage in the business of vending:

- (1) On properties owned by the Village, only in accordance with a permit issued by the Village specifying the location, dates, hours and other conditions of such vending business, and only in strict accordance with the terms of the permit;
- (2) On properties zoned C – Neighborhood commercial zone or M – municipal, public and quasi-

public zone (but not including properties owned by the Village), only between the hours of 7:00 a.m. and 9:00 p.m.; and

- (3) On properties zoned for professional office, rural residential and agricultural use (A-1, A-2 and O zones) and in the H – historical zone, and on all public rights of way within or abutting such zones, only between the hours of 9:00 a.m. and 8:00 p.m.

(c) *Removal of trash.* All trash and debris accumulating at the location or within one hundred (100) feet of the location of any vending stand or mobile food unit shall be collected by the vendor no later than the close of business each day and shall be removed from the vicinity and properly disposed of by the vendor. Such trash and debris shall not be deposited in any solid waste container serving any private or public property other than that owned or leased by the vendor, except with the specific written permission of the property owner.

(d) *Music and loudspeakers.* Amplified music or loudspeakers shall not be employed by any vendor, except that a loudspeaker playing music at moderate volume may be employed by the operator of an ice-cream truck or similar traveling mobile food vendor to announce the vendor's presence in the neighborhood.

(e) *Electrical connections.* A safe electrical utility hookup shall be required for any stand or mobile food vendor requiring electrical utility service for its operation. Electrical wires or cables shall be suspended at least ten (10) feet overhead, or shall be covered or buried sufficiently to ensure that they do not present a hazard to pedestrians. Gasoline or diesel generators are not permitted.

Section 10-58. Mobile food units.

(a) *Mobile food units generally.* A mobile food unit may be parked or stationed for a period longer than ten (10) minutes on a property zoned C – Neighborhood commercial zone or M – Municipal, public and quasi-public zone with the written permission of the landowner, and subject to the requirements of Section 10-57 and the following provisions:

- (1) The mobile food unit shall not be parked or stationed on any single lot or property for a cumulative period of more than twenty-four (24) hours during any seven (7) day period, unless the mobile food unit is included as an element of an approved site development plan.
- (2) The mobile food unit shall not be parked or left on the property overnight.
- (3) The mobile food unit may include signage on the unit. In addition, one a-frame or similar moveable sign with a total surface area of no more than 48 square feet, including both sides of a two-sided sign, may be displayed on the premises during hours of operation only. No permanent signage shall be allowed.
- (4) Only food, beverages and prepared food products shall be sold from the mobile food unit.
- (5) Seating for up to eight (8) persons may be provided on the premises. Umbrellas, if any, shall be firmly affixed to the ground or to heavy tables or fixtures to ensure safety.
- (6) At least one trash receptacle shall be provided within twenty (20) feet of the point of sale and an additional trash receptacle shall be provided at the seating area, if any.

(7) Nearby sanitary facilities (rest rooms) shall be mandatory for any mobile food unit serving hot foods. The location of the sanitary facilities shall be identified in the vendor's license application along with written permission of the property owner for their use. Such sanitary facilities shall be clearly marked and shall be open at all times when the mobile food unit is operational.

(b) *Parking*. There shall be adequate off-street parking to accommodate the mobile food unit and its customers along with other businesses, institutions or activities on the premises. Where the mobile food unit is located on a property subject to an existing site development plan, the number of off-street parking spaces remaining available on the property, after deducting parking spaces occupied by the mobile food unit and any associated activities or facilities such as seating and trash receptacles, shall not be less than the number required under Section 18-39.

Section 10-59. Penalty for violation of article.

Any person or business operating as a vendor without first obtaining a vendor license as required by this article or otherwise violating any provisions of this article shall, upon conviction, be punished in accordance with Section 1-6. In addition, this article may be enforced by appropriate legal or administrative action brought to prevent the conduct of business or vending in violation of this article, restraining, correcting, or abating the violation of this article or to prevent the occupancy of a building, structure or land on which the vending business in violation of this article is located, or to withhold the issuance of permits or inspections, as appropriate.

Division 2. License

Section 10-71. License required.

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise without first obtaining a vendor license from the Village.

Section 10-72. Application.

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

- (1) Proof of the identity and business address of the applicant;
- (2) A brief description of the nature and character of the food, beverages, goods or merchandise to be sold;
- (3) If employed by another, the name and business address of the employing person, firm, association, organization, company or corporation;
- (4) If a motor vehicle is to be used in the vending business, a description of the vehicle together with a copy of the motor vehicle registration and the license number;
- (5) A description of the proposed location of the vending business;
- (6) Written permission of the property owner upon which the goods, wares or merchandise are to be sold, except for itinerant peddlers engaged strictly in door-to-door sales;

- (7) Written certification of availability of adequate off-street parking spaces, including handicapped parking spaces if required by statute or Village ordinance, except for itinerant peddlers engaged strictly in door-to-door sales;
 - (8) Proof of a valid State gross receipts tax (CRS) identification number and an executed acknowledgment of the vendor's responsibility to correctly report the location of retail sales in the Village for gross receipts tax purposes;
 - (9) A fully executed agreement under which the vendor and the owner of the property where the vending business will be located, if any, agree to indemnify and hold the Village harmless from and against all claims, liabilities, damages, losses and expenses, including attorney's fees, arising out of any bodily injury, illness or death or any other injury or for property damage, caused by the negligent act or omission of the vendor; and
- (10) All other information required under Sections 10-57 and 10-58.

Section 10-73. Fees; exemptions.

(a) Before conducting business or operating within the Village limits, every vendor shall obtain a vendor permit for such conduct of business from the Village Clerk, and upon application for such permit shall pay a permit fee in the amount of one hundred dollars (\$100.00). The permit shall be valid during the calendar year in which issued, and shall expire on the last day of January of the subsequent calendar year, unless renewed upon application and payment of the required fee for the subsequent calendar year. If a vendor operates more than one stand or mobile food unit within the Village at any time, a separate permit shall be required for each stand or mobile food unit. The vendor permit required under this subsection shall be in addition to any business registration required under Article II of this Chapter.

(b) Exemptions from permit fees shall be as follows:

- (1) Residents within the Village limits may hold garage sales on their lots or property no more than twice yearly for a maximum of three (3) consecutive days each time, so long as the merchandise is from their home or property.
- (2) Church and civic clubs that hold events to raise money to be used in the Village or traditional fiestas shall be exempt from paying a vendor's permit fee; provided, that such events be no more than semiannual and shall not last for more than three (3) consecutive days.

Section 10-74. License to be carried; transfer prohibited.

(a) The license issued to a vendor under this article shall be carried with the vendor while he or she is engaged in the business of vending.

(b) Vendor's licenses shall be used only by the person or business to whom they were issued and may not be transferred to any other person or business.

Section 10-75. Suspension or revocation.

(a) Any license issued under this article may be suspended or revoked for any of the following reasons:

- (1) Fraud or misrepresentation in the application for the license;

- (2) Fraud or misrepresentation in the course of conducting the business of vending;
- (3) Conducting the business of vending contrary to the conditions of the license;
- (4) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(b) Upon suspension or revocation of a license under this article, the Village shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.

Section 10-76. Appeals.

Persons who are denied licenses under this article or whose licenses have been suspended or revoked may appeal such decision by filing a written notice of appeal with the Governing Body. The appeal must be filed within ten (10) business days after receipt of the notice of denial, suspension or revocation. The Governing Body shall hear and determine the appeal and the decision of the Governing Body thereon shall be final.

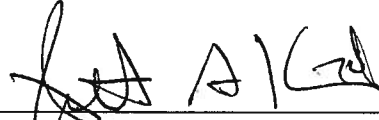
SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing 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: The amended sections of the Village Code adopted pursuant to this Ordinance shall be compiled as a part of the Code of Ordinances of the Village of Corrales, as provided herein.

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.

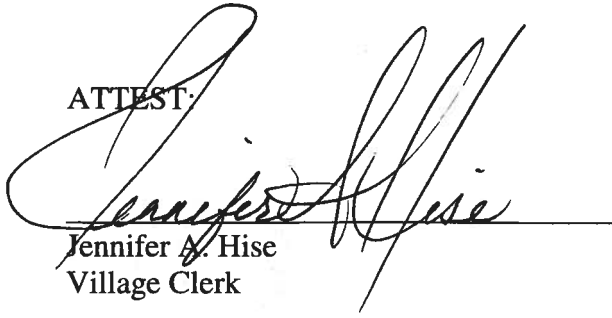
PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 13th day of December, 2016.

APPROVED:



The Honorable Scott Kominiak
Mayor

ATTEST:



Jennifer A. Hise

Jennifer A. Hise
Village Clerk