



VILLAGE OF CORRALES

ORDINANCE NO. 16-015

AN ORDINANCE RELATING TO GENERAL PENALTIES FOR CODE VIOLATIONS; AMENDING SECTION 1-6 OF THE VILLAGE CODE; PROVIDING THAT THE MAXIMUM TERM OF IMPRISONMENT FOR MULTIPLE OFFENSES ARISING FROM THE SAME INCIDENT OR TRANSACTION SHALL BE NO GREATER THAN 179 DAYS.

WHEREAS, Section 1-6 of the Code of Ordinances (the “Village Code”) of the Village of Corrales (the “Village”), being a part of Ordinance No. 244, adopted March 10, 1992, and as subsequently amended, provides that, with certain exceptions, the maximum term of imprisonment for any violation of the Village Code shall be ninety (90) days; and

WHEREAS, a defendant may be charged with multiple offenses in violation of the Village Code arising out of the same incident or transaction, so that the cumulative maximum penalty upon conviction for all such offenses could conceivably include more than six months of imprisonment; and

WHEREAS, the New Mexico Supreme Court in *State v. Sanchez*, 1990-NMSC-012, 109 N.M. 428, 786 P.2d 42, held that a defendant facing a possible sentence exceeding six months of imprisonment should be entitled to a trial by jury; and

WHEREAS, there is no statutory or regulatory provision for jury trials in the Municipal Court, and jury trials are not available in that Court; and

WHEREAS, the Village Council, the governing body of the Village, on the recommendation of the Municipal Judge and the Municipal Prosecutor, finds that Section 1-6 of the Village Code should be amended to clarify that a defendant in the Municipal Court shall in any event face a potential sentence of imprisonment for no more than 179 days for all offenses arising out of the same incident or transaction, without changing any other provision thereof.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Village of Corrales, New Mexico, that Subsection 1-6(a) of the Code of Ordinances of the Village of Corrales, being a part of Ordinance No. 244, adopted March 10, 1992, and as further amended, is hereby amended to read, in its entirety:

(a) *Maximum penalty.* Wherever in this Code, or any ordinance or resolution of the Village, or rule, regulation or order promulgated by an officer or agency of the Village under authority duly vested in him or it, an act is prohibited or is declared unlawful or an offense or a misdemeanor, unless a lesser maximum penalty or a specific penalty is established by ordinance for the particular offense, the maximum penalty for such violation shall be as follows:

- (1) Except for those violations of ordinances described in subsections (a)(2) and (a)(3) of this section, a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both; provided, however, that in all cases the maximum period of imprisonment for multiple violations arising out of the same incident or transaction shall not exceed one hundred seventy-nine days (179 days);
- (2) For violations of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than \$999.00 or imprisonment for not more than 179 days, or both; and
- (3) For violations of an industrial user wastewater pretreatment ordinance as required by the United States Environmental Protection Agency; a fine of not more than \$999.00 a day for each violation.

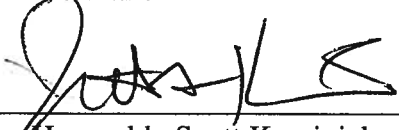
SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing 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 upon its adoption shall be compiled into and shall be 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.

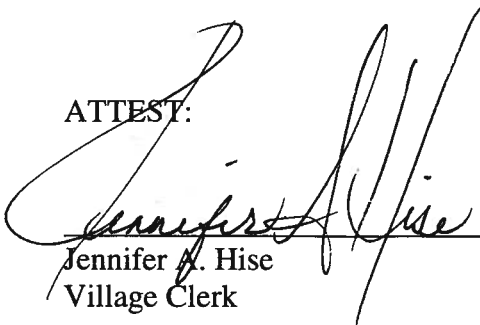
PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 13th day of December, 2016.

APPROVED:



The Honorable Scott Kominiak
Mayor

ATTEST:



Jennifer A. Hise
Village Clerk