



## VILLAGE OF CORRALES

### ORDINANCE NO. 17-007

**AN ORDINANCE RELATING TO HOME OCCUPATION PERMITS IN THE A-1, A-2 AND H RURAL AGRICULTURAL, RESIDENTIAL AND HISTORIC ZONES OF THE VILLAGE; PROVIDING THAT CERTAIN PROFESSIONAL SERVICES CONDUCTED FROM THE HOME DO NOT REQUIRE A HOME OCCUPATION PERMIT; ALLOWING UP TO THREE EMPLOYEES IN HOME OCCUPATIONS IN ALL PARTS OF THE VILLAGE; PROVIDING FOR THE SALE OF A HOME OCCUPATION IN CONJUNCTION WITH THE HOME, WITHOUT NEED FOR A NEW HOME OCCUPATION PERMIT.**

**WHEREAS**, there are a great many businesses operated out of homes in the A-1, A-2 and H zones of the Village, some of which such as professional services and internet services conducted from the home have minimal impact, if any, on the community and are entirely unnoticed by neighbors and others; and

**WHEREAS**, the process for obtaining a home occupation permit in addition to a business licenses is for these types of businesses unnecessarily burdensome because it requires a time-consuming application process and a hearing before the Planning and Zoning Commission; and

**WHEREAS**, the Village Council, the governing body of the Village ("Governing Body"), finds that for such businesses the process should be simplified so that no home occupation permit is needed and the person operating the business need only obtain a business registration from the Village clerk; and

**WHEREAS**, the Governing Body further finds that there should be an opportunity for a homeowner to sell his or her home and business in the A-1, A-2 or H zone to a purchaser as a going concern, without need for the new owner to make application for a new home occupation permit; and

**WHEREAS**, the Governing Body finds that up to three (3) persons other than members of the family should be permitted as employees of a home occupation in all parts of the Village; and

**WHEREAS**, the Governing Body finds that further technical corrections to Subsection 18-45(c) of the Village Code should be made, as provided hereinafter.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Village of Corrales, New Mexico, that Section 18-29 and Subsection 18-45(c) of the Code of Ordinances of the Village (the "Code"), being parts of Ordinance No. 192, adopted November 13, 1989 and as subsequently amended, and relating to home occupation permits, shall be amended as follows:

**Section 1.** The definition of *home occupation* in Section 18-29 of the Code is amended to read:

*Home occupation* means an occupation or business activity conducted by the resident which is clearly incidental and secondary to the use of the premises as a dwelling unit.

**Section 2.** Subsection 18-45(c) of the Code is amended to read:

(c) Home occupation permits.

- (1) *Approval and permit required.* Except as provided in subsections (2) and (3) below, no person or entity shall engage in a home business or occupation in the A-1 zone, A-2 zone or Historic zone without the issuance of a home occupation permit by the Planning and Zoning Commission. Home occupation includes, but is not limited to, the design, preparation, production, or distribution of goods and/or services.
- (2) *Agricultural activities exceptions.* Agricultural activities are encouraged and are permissive uses in most zone designations in the Village. Raising and selling crops and the raising and management of livestock and fowl that is exempt from New Mexico gross receipts tax and governmental gross receipts tax under NMSA 1978, § 7-9-18 does not require a home occupation permit. If not all the agricultural activities engaged in are exempt from governmental gross receipts tax, then such activities will require a Village of Corrales business registration under Chapter 10.
- (3) *Exceptions for certain non-agricultural activities.* In cases where a business activities is professional or administrative in nature, or is conducted primarily over the internet or telephone, is generally conducted within the confines of the dwelling unit, or where the business activity occurs at off-site locations and otherwise complies with Village ordinances, such business or occupation will require a Village business registration under Chapter 10 but will not require a home occupation permit under this Subsection 18-45(c).
- (4) *Application and fee.* Except as provided in subsections (2) and (3) above, anyone wanting to engage in a business or occupation must submit a completed home occupation permit application. The application shall be returned to the Administrator accompanied by the appropriate application fee.
- (5) *Review process.* The Administrator shall schedule a hearing on the application before the Planning and Zoning Commission no later than sixty (60) days following the submittal of a completed application.
- (6) *Requirements.* The Planning and Zoning Commission shall issue approval for a home occupation permit if the Commission finds:
  - a. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the occupants.

- b. Not more than one accessory building shall be used for all home occupations upon the lot.
- c. No more than three (3) persons other than members of the family residing on the premises shall be engaged in the home occupation at any one time on the premises.
- d. There shall be no change in the exterior appearance of the buildings or premises, or any visible evidence of the conduct of a home occupation other than:
  - 1. Activities normally associated with a permissive use of the residence, and
  - 2. An appropriate sign as regulated by chapter 8, Article IV of this Code.
- e. All business related tools and materials shall be maintained to have an orderly appearance.
- f. No equipment or process shall be used in the home occupation, which creates noise, vibration, glare, fumes, noxious odors, or other nuisances detectable from adjacent properties.
- g. There shall be no sales of goods or services from the home, which would generate greater traffic volume than would be created in a residential neighborhood.
- h. No more than two service vehicles used in the conduct of the home occupation shall be upon the premises at any one time.
- i. Any parking needs generated by the conduct of the home occupation shall be met by using off-street parking.
- j. Maximum of two home occupations shall be permitted on any one lot at any one time; provided, however, that this limitation shall not apply to those home businesses requiring only a business registration in accordance with subsections 18-45(c)(2) and (3) above..

*(7) Additional requirements.*

- a. In approving a home occupation permit, the Commission shall designate the specific uses permitted.
- b. Any change in use and/or addition to the site of any structure to be used in conjunction with the home occupation shall require the re-submittal of an application and approval as required by Subsection (c) of this section. All representations made by the applicant to the Commission or to the Governing Body in connection with an application for a home occupation permit, whether presented in written form or verbally presented at hearing, shall be deemed conditions of the home occupation

permit, and any subsequent deviation therefrom shall be considered a change in use requiring re-submittal of an application and approval of an amended home occupation permit reflecting the change in use.

- c. A change in ownership of the property and the associated business, where the new owner intends to continue operation of the business, shall not be considered a change in use or an addition. In such case, the home occupation permit shall be transferable to the new owner and the Village shall reissue the home occupation permit in the new owner's name. The new owner will be bound by the original terms and conditions approved by the Commission.

**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 subsections 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 \_\_\_ day of \_\_\_\_\_, 2017.

APPROVED:

\_\_\_\_\_  
The Honorable Scott Kominiak  
Mayor

ATTEST:

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Jennifer A. Hise  
Village Clerk