



VILLAGE OF CORRALES

ORDINANCE NO. 17-009

AN ORDINANCE RELATING TO ZONING AND LAND USE; PROVIDING FOR ADMINISTRATIVE APPROVAL OF CERTAIN APPLICATIONS FOR HOME OCCUPATION PERMITS; MODIFYING THE PROCESS FOR CONSIDERATION OF SITE DEVELOPMENT PLANS; DEFINING TERMS; AND MAKING TECHNICAL CORRECTIONS.

WHEREAS, the Planning and Zoning Commission (the “Commission”) of the Village of Corrales (the “Village”) has reviewed Chapter 18, Article II (Zoning) of the Village’s Code of Ordinances (the “Code”), with particular reference to the provisions for applications and approval of home occupation permits and the process for presentation and approval of site development plans; and

WHEREAS, the Commission has recommended to the Village Council, the governing body of the Village (“Governing Body”) that the process for presentation and approval of site development plans be modified by changing the sequence of events as set forth in Subsection 18-45(b) of the Code, and making other minor modifications, but without changing the substantive requirements for a site development plan: and

WHEREAS, the Commission has also recommended a significant revision to the process of applying for a home occupation permit for limited business use of a residential property, so that many home occupation permit applications can be approved administratively without the need for a public hearing before the Commission if it is clear from the application and representations of the applicant that there will be no observable effect by allowing the home occupation to take place; and

WHEREAS, the Commission has recommended a number of minor corrections and emendations in Chapter 18, Article II of the Code, as further set forth below; and

WHEREAS, the Governing Body finds that the recommendations of the Commission are meritorious, and should be adopted as amendments to the Code.

NOW, THEREFORE, BE IT ORDAINED by the Village Council, the governing body of the Village of Corrales, that:

Section 1. Definitions.

The definitions of *bed and breakfast*, *home occupation*, and *terrón* in Section 18-29 of the Code of Ordinances (the “Code”) are amended to read as shown below, and the other defined terms shown below shall be added to Section 18-29 of the Code in appropriate alphabetical order.

Bed and breakfast means a short term rental establishment with at least one permanent resident and a subordinate use of guest rooms which may be rented for overnight lodging with breakfast served to overnight guests only; some or all guest rooms may be in accessory living quarters.

Business means and includes the 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.

Event means activities that may include service of food and/or beverages, live or recorded music, use of sound systems, dancing and/or other types of celebrations.

Home occupation means an occupation or activity conducted by the resident which is clearly incidental and secondary to the use of the premises as a dwelling unit or accessory unit approved by the Commission. Home occupation includes, but is not limited to, the design, preparation, production, or distribution of goods and/or services or support for those activities such as billing, accounting or resupplying.

Occupation(s) means a person's work or business, especially as a means of earning a living and/or vocation.

Professional means a person engaged in a vocation or occupation requiring special education, knowledge or skill and that requires licensure by the State of New Mexico under Chapter 61, NMSA 1978.

Short term rental means any dwelling or property, in which the owner may or may not reside, that is available for use or is used for accommodations or lodging of guests, paying a fee or other compensation for a period of less than thirty (30) consecutive days.

Terrón means a cut sod brick as described in Section 14.7.4.10.C of the New Mexico Administrative Code.

Section 2. Subsections 18-33(2)(i), 18-34(2)(i), 18-35(2)(h) and 18-37(3)(i) of the Code, relating to permissive uses in the A-1, A-2, H and C zones, respectively, are each amended to read:

Home occupations (permit application and business registration required, see Section 18-45(c)).

Section 3. Subsections 18-33(11)(c)(1), 18-34(3)(b)(1), and 18-35(3)(c)(1) of the Code, relating to group homes as uses by review in the A-1, A-2 and H zones, respectively, are each amended to read:

The maximum capacity to house on the premises shall be no more than five patients or residents.

Section 4. Subsection 18-37(4)(1) of the Code, relating to group homes as uses by review in the C zone, is amended to read:

Group homes having a maximum capacity and occupancy of no more than eight (8) patients or residents residing on the premises.

Section 5. Subsection 18-37(3)(aa) of the Code, relating to permissive uses in the C zone, is amended to read:

Short term rental lodging establishments with no more than six (6) guest rooms.

Section 6. Subsection 18-39(c)(3) of the Code, relating to off-street parking requirements, is amended to read:

Short term rental lodging establishments. One and one-half parking spaces per every guestroom.

Section 7. The first three words (header) under Subsection 18-45(a) of the Code are amended to read:

Development review process.

Section 8. Subsections 18-45(b)(3), (4) and (5) of the Code, relating to the process for site development plan approval, are amended to read in their entirety as follows:

- (3) *Meeting with the Administrator.* Prior to submitting an application, the applicant shall first schedule a meeting with the Administrator. Review and comments shall be given to the applicant at this time, concerning the relationship of the proposed development to the Village Comprehensive Plan and the applicable zoning ordinances, along with copies of the pertinent sections of this article, applications and other submittal requirements.
- (4) *Review process.* The Administrator shall schedule a hearing before the Commission no later than sixty (60) calendar days following the submittal of a completed application as determined by the Administrator.
- (5) *Guidelines.* The Commission shall not approve any site development plan unless all the requirements of this article are met. The Commission may, in its discretion, grant conditional approval of a proposed site development plan subject to satisfactory completion of certain specified requirements prior to a date certain, and may delegate to the Administrator, the chairman of the Commission, or other specifically designated individual the authority to determine whether such requirements have been satisfactorily

completed. In addition, no site development plan shall be approved unless satisfactory provisions have been made concerning the following, where applicable:

- a. Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, streets/roads, and emergency access in case of fire, flood or catastrophe.
- b. Off-street parking and loading areas where required, with particular attention to the refuse and service areas (see Subsection 18-37(10)).
- c. Show all on-site locations for water, septic, sewer and liquid waste facilities, with reference to soil limitations, locations, and public health.
- d. On-site drainage and storm water runoff.
- e. The noise, glare, or odor effects of the proposed use on adjoining properties.
- f. General compatibility with existing adjacent properties.
- g. The overall health and safety of the community.
- h. The goals and objectives of the Village of Corrales Comprehensive Plan.

Section 9. Subsection 18-45(c) of the Code, relating to home occupation permits, is amended to read in its entirety as follows:

(c) Home occupation permits.

- (1) *Approval and permit required.* Except as otherwise provided in this Subsection 18-45(c), no person(s) or entity shall engage in a home business or occupation of any kind in the A-1, A-2 or Historic zones without the issuance, review and approval of a home occupation permit.
- (2) *Agricultural Activities Exceptions:* Agricultural activities are encouraged and are permissive uses in designated zones. Raising and selling crops and the raising and selling 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 application. If all the agricultural activities are not exempt from governmental gross receipts tax, a Village business registration is required.
- (3) *Application and fee.* 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.
- (4) *Review process.*

- a. A home occupation permit and business registration may be issued by the Administrator and Village Clerk on the authority of the Commission but without Commission review if the applicant meets all of the following requirements:
 1. Applicant shall have obtained a valid CRS identification number from the New Mexico Taxation and Revenue Department, which must be active and in good standing;
 2. Applicant shall conduct all business within the confines of the dwelling unit or a single accessory structure listed in accordance with applicable Village ordinances;
 3. There shall be no visible appearance of the business outside the dwelling unit or accessory structure listed on the business registration;
 4. Applicant shall not engage in the manufacture of tangible goods for sale or trade, at wholesale or at retail, at the location of the home occupation;
 5. Business activities shall be in full compliance with all local, state and federal laws, rules and regulations;
 6. There shall be no more than four (4) business registrations on the property;
 7. There shall not be any employees of the business on the property except those residents listed as applicants on the business registration application;
 8. If the applicant is not the owner of the property, the applicant shall provide a letter signed by the property owner granting approval for the proposed business use; and
 9. The business or occupation is conducted strictly by mail and electronic communications; shall not include the use of heavy equipment, machine tools, or other audible power equipment; and shall not include regular or repeated client visits to the property.
- b. If a person granted a home occupation permit under the provisions of the preceding Subsection 18-45(c)(4)(a) is found by the Administrator to have violated any of the requirements set forth therein, such person upon notice by the Administrator shall have thirty (30) days to file an amended application for a home occupation permit for Commission consideration under the following Subsection 18-45(c)(4)(c).
- c. If the proposed home occupation does not clearly qualify for administrative approval under Subsection 18-45(c)(4)(a), the Administrator shall schedule a hearing on the application before the Commission no later than sixty (60) calendar days following the submittal of a completed application. The applicant shall attend or send an authorized representative to the hearing on the date set by the Administrator. The

Commission after hearing on the application shall issue approval for a home occupation permit if the Commission finds:

1. 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.
2. Not more than twenty-five (25) percent of the floor area of the dwelling unit and not more than two thousand (2,000) square feet in one accessory building shall be used for all home occupations upon the lot. For lots located in the Neighborhood Commercial and Office District (NCOD) as defined in the FNWS Plan Addendum to the NWS Plan, Ordinance 342, dated February 12, 2002, not more than forty-five (45) percent of the floor area of the dwelling unit or more than four thousand (4,000) square feet in an accessory building shall be used for all home occupations upon the lot.
3. No more than one person other than members of the family residing on the premises shall be engaged in all home occupation at any one time on the premises in A-1 and A-2 zoned lots. For lots located in the Neighborhood Commercial and Office District (NCOD) as defined in the FNWS Plan Addendum to the NWS Plan, Ordinance No. 342, dated February 12, 2002, no more than 3 persons other than members of the family residing on the premises shall be engaged in all home occupation at any one time on the premises.
4. 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:
 - i. Activities normally associated with a permissive use of the residence, and
 - ii. An appropriate sign as regulated by chapter 8, Article IV of this Code.
5. All business related tools and materials shall be maintained to have an orderly appearance.
6. 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.
7. 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.
8. No more than two service vehicles used in the conduct of the home occupation shall be upon the premises at any one time for all home occupation(s) and business registrations.

9. Any parking needs generated by the conduct of the home occupation shall be met by using off-street parking. Short term parking for lodging shall meet the requirements of Subsection 18-39(c)(3), Short Term Lodging Establishments.
 10. Maximum of four (4) home occupations shall be permitted on any one lot at any one time.
 11. In approving a home occupation permit, the Commission shall designate the specific uses permitted.
- d. 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 this Subsection 18-45(c)(4). 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.

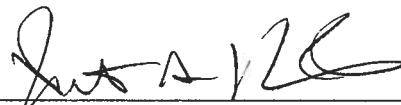
SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing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

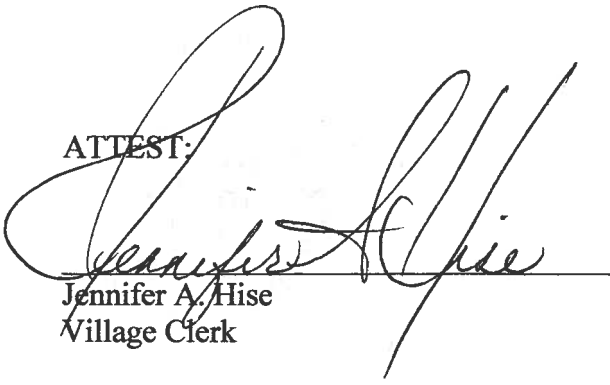
PASSED, APPROVED AND ADOPTED by the Governing Body of the Village of Corrales, New Mexico, this 8th day of August, 2017.

APPROVED:



The Honorable Scott Kominiak
Mayor

ATTEST:



A handwritten signature in cursive script, appearing to read "Jennifer A. Hise", is written over a horizontal line. The signature is fluid and extends above and below the line.

Jennifer A. Hise
Village Clerk