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ARTICLE I. IN GENERAL

Sections 14-1 to 14-25. Reserved.

ARTICLE II. NOISE

Section 14-26. Penalty for violation of article; abatement.

(a) Any person violating any of the provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with Section 1-6.

(b) As an additional remedy to violations of this article, the operation of any device, instrument,

vehicle, or machinery in violation of any provision of this article, which operation or maintenance exceeds the limitations of this article, may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

History: Ord. No. 178, § 2 (6-10-6), adopted 10-19-87.

Section 14-27. Excessive noise prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive or unusually loud noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Village. Unlawful noises include, but shall not be limited to, the following:

- (1) *Horns and signal devices.* The sounding of any horn or signaling device of any automobile, motorcycle, truck or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling device of any unreasonable, loud, or harsh sound, the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure, and the use of any such signaling device where traffic is held up.
- (2) *Radios and phonographs.* The use or operation of any radio, television, phonograph, sound-amplifying equipment or other sound producing machine in such a manner as to disturb the peace and quiet of persons in any office, dwelling, hotel or residence, or of any persons in the vicinity.
- (3) *Loudspeakers and amplifiers used for advertising.* The use or operation, or permitting to be played, used, or operated, of any radio, receiver set, musical instrument, phonograph, tape recorder, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public in any residential area, except with the proper temporary permit prescribed in this article.
- (4) *Yelling or shouting.* Yelling, shouting or creating other loud noises which annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or residence, or of any persons in the vicinity.
- (5) *Animals.* The keeping of any animals which by causing frequent or long continuous noise shall disturb the comfort or repose of any persons in the vicinity
- (6) *Schools, courts, churches, hospitals.* The creating of any unusual or excessive noise on any street, sidewalk, or public place adjacent to any hospital, school, institution of learning, church or court which interferes with the workings of such institution, or which disturbs or annoys patients in a hospital.
- (7) *Pounding.* The pounding or hammering on any metal object or thing except inside a building or in connection with the construction or erection of a building.
- (8) *Machinery.* The operation of any machinery, equipment, pump, fan, exhaust fan, air conditioning apparatus or similar mechanical device in such a manner as to create any unreasonable or unnecessary noise of unreasonable extent and duration.
- (9) *Motor vehicles and repairs.* The operation of any motor vehicle on any roadway within the Village, at any time or under any condition of grade, load, acceleration or deceleration, or the repair, rebuilding or testing of any motor vehicle, in such a manner as to create any unreasonable or unnecessary noise of unreasonable extent and duration.

- (10) *Construction of buildings and projects.* The operation or the causing of operation of any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances within a residential, commercial, historic or municipal zone or within a radius of 500 feet there from without sound control devices as effective as those provided on the original equipment, or in violation of any regulations of the United States Environmental Protection Agency; or the operation or causing to be operated of any such equipment during the nighttime, except in emergency situations.
- (11) *Aircraft.* The operation, run-up or testing, or causing to be operated, run-up or tested, of an aircraft engine which creates any unreasonable or unnecessary noise in excess of 15 minutes per day. The interest of this subsection is to regulate the noise levels produced in the testing, maintenance and repairing of aircraft in the nighttime hours to the extent it disturbs or annoys inhabited residential zones. Any aircraft engine operating within an aircraft during a landing, takeoff, or while moving upon the ground surface of an airport shall be exempt from the provisions of this subsection.

History: Ord. No. 178, § 2 (6-10-3), adopted 10-19-87.

Section 14-28. Exemptions from regulations.

The following uses and activities shall be exempt from the noise regulations in this article:

- (1) Noises of safety signals, warning devices, emergency pressure relief valves, and security alarm systems.
- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.
- (3) Noises resulting from emergency work.
- (4) Any noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Village in accordance with Section 14-29.
- (5) Any aircraft operated in conformity with or pursuant to federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations. Any aircraft operating under technical difficulties in any kind of distress under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations.
- (6) From sunrise to sunset, farm or agricultural equipment used in the usual and customary business of farming.
- (7) Any school activities or municipally sponsored activities.
- (8) Noise resulting from usual construction, repairs, and maintenance of or to an owners residence shall also be exempt between the hours of 7:00 a.m. and 10:00 p.m.
- (9) Noise resulting from a sound amplifier or device for the production or reproduction of sound which is cast upon the public streets by ice cream truck vendors shall be exempted between 10:00 a.m. and sun set.

History: Ord. No. 178, § 2 (6-10-4), adopted 10-19-87; Ord. No. 315, adopted 8-15-98.

Section 14-29. Temporary permits.

(a) The Village Clerk or Village Administrator with the concurrence of the Mayor may grant a temporary permit which allows noncompliance with the limitations prescribed in this article for activities of short duration. The issuance of such permits will be only for a time period between 10:00 a.m. and 10:00 p.m.

(b) Permits under this section shall only be granted upon application following an investigation to assure that the permit will not result in a condition injurious to public health, safety and welfare, provided an initial investigation assures that the permit will not result in a condition injurious to public health or safety

(c) The application for the temporary noise permit must be submitted to the Village of Corrales Clerk at least twenty-one (21) days prior to the event. No individual may have a temporary noise permit more than twice each calendar year.

(d) No temporary permit will be granted until review and approval by the Corrales Police Department Chief or his/her designated representative.

(e) The granting of a temporary permit as provided by this section shall not be interpreted to allow the permit holder to produce noise of such a volume as to be injurious to surrounding residents, disturb the peace or create a nuisance.

(f) The following factors shall be considered to determine whether granting a permit under this section will not result in a condition injurious to health and safety of the neighborhood and the community:

- (1) Distance of proposed activities from a residence.
- (2) Number of amplification devices to be used in the proposed activities.
- (3) Anticipated direction of amplification devices.
- (4) Anticipated length of proposed activities.
- (5) Whether the activity will be held within or without a structure.

(g) Upon a determination that the granting of a permit under this section will not result in a condition injurious to public health or safety, the permit shall be issued specifying the place, duration and any restrictions appropriate to the proposed site of the activities.

(h) Permits issued under this section will be surrendered to any Village police officer upon request when it is determined that a restriction of the permit or of this section has been violated.

(i) Reapplication for a permit under this section may be denied upon evidence of a complaint, upheld in court, by a resident in the locality of the permitted activity, or if an applicant has in the past been required to surrender a permit as described in Subsection (h) of this section.

(j) Each application shall be accompanied by a non-refundable fee of \$20.00.

(k) Any person aggrieved by the disposition of an application for a temporary permit under this section may appeal such disposition by filing a written petition with the Village Clerk within 15 days of

such disposition.

History: Ord. No. 178, § 2 (6-10-5), adopted 10-19-87; Ord. No. 257, § 1, adopted 6-22-93; Ord No. 331, adopted 10-10-00.

Sections 14-30 to 14-50. Reserved.

ARTICLE III. SMOKING

Section 14-51. Smoking in public buildings.

(a) *Restriction.* There will be no smoking in any public buildings in the Village except in those areas designated by the Governing Body, which will be marked with a sign stating that smoking is allowed in that area.

(b) *Signs; enforcement.* The Mayor shall designate a person responsible to provide that signs using the words “no smoking” or the international no smoking symbol or both are conspicuously posted either on all public entrances or in a position where the sign is clearly visible on entry into the public building. The Mayor shall ensure that procedures are established for the enforcement of Subsection (a) of this section.

(c) *Governing Body and board meetings.* No smoking will be allowed in any meetings of the Governing Body or in any meetings of any Village boards and commissions.

(d) *Penalty.* Any person who violates this section shall be fined not less than \$10.00 or more than \$25.00 for each violation.

History: Ord. No. 150, adopted 1-28-86; Ord. No. 212, adopted 3-27-89.

Sections 14-52 to 14-70. Reserved.

ARTICLE IV. NUISANCES

Cross reference: Nuisance animals, § 6-9.

Division 1. Generally

Section 14-71. Sewage effluent; penalty.

(a) No sewage effluent from any plant, facility or establishment located within the Village shall be sprayed, sprinkled, bubbled in the air or allowed to flow on or over the surface, nor shall methods be permitted which allow for the application, by any means, of effluent to be evaporated, sprayed, sprinkled or otherwise to be introduced into the air.

(b) Any person violating the provisions of this section may be deemed guilty of a misdemeanor, and such person may be guilty of a separate offense for each and every day or portion thereof during which any such violation is continued or permitted. Upon conviction for any such violation, such person shall be punished in accordance with Section 1-6.

History: Ord. No. 132, adopted 8-15-84.

Section 14-72. Addition of a bittering agent to antifreeze sold in the Village of Corrales; penalty for violation.

(a) Any engine coolant or antifreeze sold in the Village of Corrales after July 1, 2003, and that contains more than 10 percent ethylene glycol, shall include denatonium benzoate at the minimum concentration of 30 parts per million as a bittering agent within the product so as to render it unpalatable. Another aversive agent may be used if it meets or exceeds the degree of aversion in test subjects obtained by utilizing the formulation of 30 parts per million of denatonium benzoate in antifreeze. Any manufacturer or packager of a product subject to this section shall maintain a record of the trade name, scientific name, and active ingredients of any bittering agent used pursuant to this section. Information and documentation maintained pursuant to this section shall be furnished to any member of the public upon request.

(b) This section shall not be constructed to apply to the sale of a motor vehicle that contains engine coolant or antifreeze.

(c) Any person violating the provisions of this section may be deemed guilty of a misdemeanor and each sale of antifreeze in violation of this section may be deemed a separate offense [offense]. Upon conviction for any such violation, such person shall be punished in accordance with Section 1-6.

History: Ord. 381, adopted 4-27-04.

Sections 14-73 to 14-90. Reserved.**Division 2. Removal of Illegally Parked or Abandoned Vehicles****Section 14-91. Prohibition of removal and relocation.**

It is unlawful for a municipal police officer, or any municipal employee, to remove, or cause to be removed, any unattended vehicle from any street, alley or public way within the municipal corporate limits, except as provided in this division.

History: Ord. No. 167, adopted 3-23-87.

Section 14-92. Circumstances permitting summary vehicle removal.

(a) Any municipal police officer, or any municipal employee who is authorized to direct traffic or enforce State or local parking or motor vehicle laws, may remove or cause to be removed any vehicle within the municipal corporate limits, without prior notice to the owner or operator thereof, under the following circumstances:

- (1) When any vehicle is left unattended upon any bridge, viaduct or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.
- (2) When any vehicle is parked or left standing upon a street, alley or public way in such a position so as to obstruct the normal movement of traffic or is in such a condition as to create a hazard to other traffic.
- (3) When any vehicle is found upon a street, alley or public way and report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been stolen.
- (4) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point where parking is

legal.

- (5) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant.
- (6) When the person in charge of a vehicle upon a highway is by reason of physical injuries, intoxication or illness incapacitated to such an extent as to be unable to provide for its custody or removal.
- (7) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this division or any other law required or permitted to take, and does take, the person arrested before a Municipal Judge or magistrate without unnecessary delay.
- (8) Whenever an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the street, alley or public way, or its physical appearance is causing the impeding of traffic.
- (9) Whenever the use of the street, alley or public way or any portion thereof is authorized by the municipality for a purpose other than the normal flow of traffic or for the movement of equipment, articles or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use of movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal.
- (10) Whenever any vehicle is parked or left standing where prohibited by ordinance or other State or local law.
- (11) Whenever any vehicle is parked or standing in a manner so as to obstruct necessary emergency services or the routing of traffic at the scene of a disaster and moving the vehicle to a legal parking location is impractical. However, the owner or operator of a vehicle so relocated or removed shall not be subject to any relocation, removal, or storage charges if the vehicle was otherwise lawfully parked. Such charges shall be paid by the municipality.
- (12) Whenever any vehicle is parked on any railroad track or within 50 feet of the nearest rail and it is impracticable to relocate such vehicle to another point where parking is legal.
- (13) Whenever any vehicle is parked in such a manner so as to obstruct or interfere with any road, sidewalk or right-of-way maintenance or construction or any utility work, and it is impracticable to relocate the vehicle to another point where parking is legal. No vehicle shall be removed unless signs are posted giving notice of the work to be done and the possibility of removal at least 24 hours prior to removal.
- (14) When any vehicle is parked within 25 feet from any gated closure which has been erected to prohibit unauthorized traffic on the Sandoval lateral ditch right-of-way or in the Corrales Bosque. No vehicle shall be parked in such a manner so as to obstruct any access road leading to such closure.

(b) Whenever a vehicle could be removed, and the driver of the vehicle is present, the municipal police officer or other authorized employee may order the driver to move that vehicle to another location.
History: Ord. No. 167, adopted 3-23-87; Ord. No. 197, § 1, adopted 5-23-88.

Section 14-93. Abandoned vehicles.

- (a) No vehicle shall be abandoned within the municipal corporate boundaries. The persons

abandoning the vehicle shall have violated this division and shall be subject to a penalty of no more than \$25.00 for each day the vehicle is abandoned.

(b) A vehicle is abandoned if the vehicle is parked on or along any street, alley, public way or on private property and the vehicle displays no license plates or other signs of registration.

(c) When a vehicle is abandoned on or along a street, alley or public way under circumstances which do not allow summary removal per the terms of this division, notification shall be attached to the vehicle in a manner which is readily visible containing the following information:

- (1) The date and time the notification was affixed to the vehicle.
- (2) A statement that, pursuant to this division, if the vehicle is not removed within 24 hours from the time the notice was affixed; it may be taken into custody and stored at the owners expense.
- (3) The name of the police department and its department headquarters.
- (4) The badge number of the affixing officer.

(d) If the vehicle is not removed within such 24-hour period, the vehicle may be removed or caused to be removed by the municipal police or any employee who is authorized to direct traffic or enforce State or local parking or motor vehicle laws, per the procedures set forth in Section 14-95.

History: Ord. No. 167, adopted 3-23-87; Ord. No. 180, §1, adopted 11-23-87.

Section 14-94. Impounding vehicle for investigation.

(a) When any municipal police officer has probable cause to believe that a vehicle on a street, alley or public way, or on private property open to the general public onto which the public is explicitly or implicitly invited, has been involved in an accident, and the owner or operator of the vehicle has failed to comply with any of the provisions of NMSA 1978, §§ 66-7-201 through 66-7-208, the police officer may remove or cause to be removed the vehicle from the street, alley, public way or private property for the purpose of inspection.

(b) The municipal police shall make all reasonable and diligent efforts to ascertain the name and address of all registered owners.

History: Ord. No. 167, adopted 3-23-87.

Section 14-95. Procedures and notice.

(a) Whenever a vehicle is removed per the provisions of Section 14-92 or Section 14-93:

- (1) The person ordering a removal shall issue the vehicle impound/tow-in report. Such order shall be affixed to the vehicle and contain the following information:
 - a. The name of the person issuing the vehicle impound/tow-in report.
 - b. The license plate number, make, type and color of the vehicle.
 - c. The former location and the place where the vehicle was removed to.
 - d. The reason for removal.
 - e. That the defendant may obtain a hearing on the legality of the relocation or removal before

the Municipal Judge and what the time and place for such a hearing is.

- f. How the defendant may pay the appropriate penalty, if no hearing is desired.
- g. The name, address and telephone number of the towing service which removed the vehicle.
- h. That the defendant may obtain release of the vehicle by posting bond.
- i. The odometer reading on the vehicle at time of removal or relocation.

(2) The police shall keep a record of all vehicles which have been removed, their former location, and the reason for the removal. The police shall also, as soon as practicable, obtain the name and address of all registered owners of the vehicle from the State department of motor vehicles. Within five days of the removal, written notice of the towing shall be sent to all registered owners by registered or certified mail, return receipt requested. Such written notice need not be sent if the vehicle has been claimed within the five-day period. The written notice shall contain:

- a. A copy of the order provided for in Subsection (a)(1) of this section; and
- b. That pursuant to this article, if arrangements are not made for the release of the vehicle, then a lien may be placed on the vehicle after 30 days and the vehicle may be sold at auction.

(b) When notice by registered mail is required under the terms of this article, weekends and holidays shall not be included when calculating the time for mailing the notice.

(c) When vehicles are registered in states outside New Mexico, the municipal police shall make all reasonable and diligent efforts to ascertain the name and address of all registered owners. If the name and address information for an in-state or out-of-state vehicle is not available soon enough to meet the time deadlines for mailing written notice, then the notice shall be mailed as soon as possible after the information is received.

(d) Whenever any notice is required to be made under the terms of this division, notice may be given by personal service or in any other reasonable manner, so long as actual notice is given within the time limits set forth in this division.

History: Ord. No. 167, adopted 3-23-87.

Section 14-96. Outdoor automotive storage.

(a) The presence of a dismantled, partially dismantled or inoperable vehicle or parts thereof on any occupied or unoccupied land within the Village limits in violation of the terms of this section is a public nuisance.

(b) Definitions, as used in this section:

(1) *Dismantled or partially dismantled* vehicle means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

(2) *Inoperable motor vehicle* means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

(3) *Motor vehicle* means any wheeled vehicle which is self-propelled or intended to be self-propelled.

(c) It is unlawful for any person to store on, place on, or permit to be stored or placed on, or allowed

to remain on any occupied or unoccupied land within the Village limits a dismantled partially dismantled or inoperable motor vehicle or any parts of a motor vehicle except in a storage area as provided in Subsection (f) of this section.

(d) An owner or tenant may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled or inoperable motor vehicle or parts thereof for a period not to exceed 72 hours if such motor vehicle is registered in his name, and provided further that any such owner or tenant may, in the event of hardship, secure a permit from the Village to extend such period of 72 hours for an additional period not to exceed one week.

(e) Upon application by the registered owner of a motor vehicle covered by this section, and upon the proof of hardship, the police department or its authorized agent is hereby authorized to issue the permit provided for in Subsection (d) of this section and shall require the payment of \$1.00 for each permit issued.

(f) An owner may store a dismantled, partially dismantled or inoperable motor vehicle or the parts of a motor vehicle, provided such motor vehicles and parts and the outdoor storage areas are maintained in such a manner that they do not constitute a health, safety or fire hazard and are effectively screened from ordinary public view by means of a solid fence. All storage areas shall be kept free of weeds, trash, refuse, garbage and any other objectionable items.

(g) Prior to removal of any motor vehicle under this section the police department shall issue a warning citation to the owner of the vehicle. If, after ten days has elapsed from issuance of the warning citation, the owner has not removed the vehicle or hidden it from public view as per Subsection (f) of this section, the police department shall issue a citation to the owner under Subsection (a) of this section.

History: Ord. No. 167, adopted 3-23-87; Ord. No. 217, § 6-8-6, adopted 9-11-89.

Section 14-97. Penalties.

- (a) Any person whose vehicle has been removed shall be fined a penalty of \$25.00 for each removal. This shall be in addition to the towing and storage charges by the towing company.
- (b) The registered owner of the vehicle shall be presumed to be the driver of the car and the party liable for payment of the penalties set forth in this section.
- (c) Payment may be made in full to the Municipal Court, which shall issue a written receipt of payment authorizing immediate release of the stored vehicle, subject to payment by the registered owner of the towing and storage charges.

History: Ord. No. 167, adopted 3-23-87.

Section 14-98. Bond.

Any person who desires a hearing on the legality of a removal or storage may post bond in an amount reasonably calculated to assure their appearance at the hearing. When bond is posted, the vehicle shall be immediately released into the possession of the person posting bond, or that person's designee. The person posting bond, or the defendant, if bond is posted by a third party, shall sign a promise to appear in Municipal Court to attend a hearing on the legality of the removal or storage. The date of the hearing shall be not later than five days from the date bond is posted, excluding weekends and holidays.

History: Ord. No. 167, adopted 3-23-87.

Section 14-99. Hearing.

- (a) The owner or operator of any vehicle cited for maintaining a nuisance under Section 14-96(a)

may obtain a hearing on the issue of whether the vehicle sought to be removed constitutes a public nuisance as defined in Section 14-96(a), by filing a request with the Municipal Court for a hearing within ten days of issuance of the citation. If such request is filed, a hearing shall be granted within 30 days of the request.

(b) If the Municipal Judge determines that the vehicle in question constitutes a nuisance, as defined in Section 14-96(a), he shall order the vehicle removed by the owner. The Municipal Judge shall advise the defendant that if the defendant does not promptly remove the vehicle, it will be removed by the Village police and the expense of removal shall be assessed against defendant as a penalty for violation of this division in addition to any other penalties levied as provided in this division. The Municipal Judge may advise the defendant, that, in addition to other collection procedures, the Village has a lien on the vehicle and it can be sold at auction to satisfy expenses of removal and storage.

History: Ord. No. 167, adopted 3-23-87; Ord. No. 217, §6-8-9(a), (c), adopted 9-11-89.

Section 14-100. Signs.

Whenever a sign is required under the terms of this division to give notice of the possibility of removal of a vehicle, such sign shall:

(1) State that the area is a tow-away zone.

(2) Be readily visible from the point of removal.

History: Ord. No. 167, adopted 3-23-87.

Section 14-101. Disposition of personal property.

(a) Prior to removal of any locked vehicle, the person ordering the removal shall inventory all personal property in unlocked compartments of the vehicle and shall:

(1) Require the person storing the vehicle to sign a receipt indicating that the inventoried items were taken into possession by the person storing the vehicle.

(2) Affix a copy to the vehicle, along with the vehicle impound/tow-in report.

(b) If a vehicle is locked at the time of removal, it shall be unlawful for anyone other than a municipal police officer to open any locked portion of the vehicle during removal or storage. Violation of this prohibition shall be punished in accordance with Section 1-6.

(c) Whenever a vehicle is removed and stored under the provisions of this division, the owner of any personal property contained within the vehicle may obtain automatic release of such property from the storage facility during the normal business hours of the storage facility.

(d) No lien shall attach onto any personal property within a stored vehicle. Upon sale of a vehicle to satisfy a lien, the personal property shall be stored by the municipality for the benefit of the owner thereof. If the property is not claimed within six months, the property shall be deemed lost or abandoned property and disposed of by the municipality in an appropriate manner.

History: Ord. No. 167, adopted 3-23-87.

Section 14-102. Use of private firms for removal, relocation or storage.

(a) A person, private business or company may remove, relocate, or place a vehicle in storage:

(1) Whenever requested to do so by the owner or operator of the vehicle;

- (2) Whenever directed to do so by an authorized municipal employee or municipal police officer per the terms of this division; or
- (3) Whenever otherwise allowed by law.

(b) No removal or storage shall be undertaken by municipal police officers unless the police officer ordering the removal provides to each private business or company taking possession of the vehicle a copy of the vehicle's impound/tow-in report.

History: Ord. No. 167, adopted 3-23-87.

Section 14-103. Abandoned vehicles on private property.

(a) Any person upon whose property or in whose possession is found an abandoned vehicle or motor vehicle shall have authority to sell, retain, give away or dispose of the abandoned vehicle or motor vehicle to any person licensed under NMSA 1978, §§ 66-4-1 through 66-4-9, provided that he notifies a law enforcement agency prior to such disposal and obtains from that agency a written clearance stating that neither the agency's records nor the computerized records of the national crime information center indicates that the vehicle or motor vehicle has been reported as stolen, and either:

- (1) The vehicle or motor vehicle in question regardless of its age, is either totally wrecked or in such a state of disrepair that it is suitable only for dismantling purposes.
- (2) The vehicle or motor vehicle in question is at least eight years of age or older.
- (3) The vehicle in question has been placed in any storage or wrecker yard at the request of a property owner upon whose property the vehicle or motor vehicle was abandoned and has remained unclaimed in the yard for a period of 30 days, in which case the owner of the storage yard may proceed to make a claim against the motor vehicle or vehicle, as specified in NMSA 1978, § 66-3-119(C) as though it were abandoned. Any person wishing to obtain such vehicle may not charge more than \$0.50 per day for storage unless he is licensed as a vehicle storage yard, and he must notify owners and lien holders within 30 days or lose all rights to claim such vehicle.

(b) If any vehicle is less than eight years of age or in such a state of repair that it will be placed back into service or which is not to be used for dismantling purposes, or which a property owner wishes to retain for his own use or to sell to anyone other than a licensed dismantler, the person shall proceed to make claim for such vehicle or motor vehicle through a lien process and obtain a new certificate of title prior to disposal.

(c) Any property owner upon whose property is found an abandoned vehicle shall be exempt from the provisions of Section 14-96 for a period of 72 hours or until such time as a written clearance is obtained from a law enforcement agency or a new certificate of title is issued.

History: Ord. No. 167, adopted 3-23-87; Ord. No. 180, § 2, adopted 11-23-87.

Sections 14-104 to 14-110. Reserved.

Division 3. Graffiti

Section 14-111. Definitions.

As used in this article, the following terms shall have the meaning indicated, unless a different

meaning is clearly required by the context:

Graffiti means any unauthorized inscription, word, figure, painting or other marking or defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by means of an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface, without the prior approval of the owner or occupant of such property.

History: Ord. No. 13-012, § 1, adopted 8-13-13.

Section 14-112. Graffiti prohibited.

It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any public or private property at any location in the Village where such graffiti are visible to the public. Any person violating this subsection shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Section 1-6. Alternatively, such person may be charged in an appropriate court with violation of Section 30-15-1.1, NMSA 1978, and penalized in accordance with the provisions thereof.

History: Ord. No. 13-012, § 2, adopted 8-13-13.

Section 14-113. Removal or concealment of graffiti.

(a) The property owner or occupant has the primary responsibility for removal of unauthorized, offensive or otherwise prohibited graffiti. Upon becoming aware of any such graffiti located upon private property, the Village will notify the property owner or occupant by the most expeditious means reasonably available that the graffiti must be removed within two (2) weeks. Notice may be delivered in person, by mail, or by posting on the affected property. The notice shall advise the property owner or occupant that if the owner or occupant does not promptly remove, paint over or conceal the graffiti from public view, then the Village may enter upon the property and remove, paint over or otherwise conceal the graffiti. The notice shall further advise the property owner or occupant that, if the owner or occupant objects to the removal, painting over or concealment of the graffiti, then the owner or occupant must file an objection and request for hearing in the office of the Village clerk within two (2) weeks of delivery of the notice. If the graffiti remain in place two (2) weeks after notice and the property owner or occupant has not filed an objection or request for hearing, then the Village may cause the graffiti to be removed, painted over or concealed at the Village's discretion and in such manner as the Village deems most appropriate and convenient.

(b) Upon becoming aware of any unauthorized, offensive or otherwise prohibited graffiti on Village-owned property, the Village shall cause the graffiti to be promptly removed, painted over or otherwise concealed in the manner deemed most appropriate and convenient by the Village administration.

(c) Upon becoming aware of any unauthorized, offensive or otherwise prohibited graffiti on public property owned or controlled by a public entity other than the Village, the Village shall promptly contact the affected entity and request that the graffiti be removed, painted over or concealed, or in the alternative request authority for the Village to enter upon the property and remove, paint over or conceal the graffiti.

History: Ord. No. 13-012, § 3, adopted 8-13-13.

Section 14-114. Cost of graffiti removal or concealment.

(a) If the person or persons who created unauthorized, offensive or otherwise prohibited graffiti is or are known to the Village, the Village shall demand compensation from such person or persons in an amount sufficient to cover all costs, direct and indirect, for removal, painting over or concealment of the graffiti. If any such person is a minor, the Village may demand compensation from the minor's parents or legal guardians. Compensation for the costs of graffiti removal, painting over or concealment shall be in addition to, and not in lieu of, any other fines or penalties that may be imposed pursuant to this ordinance, Section 30-15-1.1, NMSA 1978, or any other provision of law.

(b) If a property owner or occupant, after notice from the Village pursuant to Section 14-113, fails to remove, paint over or otherwise conceal the graffiti located on his or her property or request a hearing as provided therein, and the Village undertakes to remove, paint over or conceal such graffiti, the Village shall invoice the property owner or occupant for the Village's actual costs incurred to remove, paint over or conceal the graffiti, and such costs upon recovery from the owner or occupant shall be deposited into the Village's general fund, or such fund as was used to pay for the removal of the graffiti if not the general fund. If the owner or occupant objects to the costs as presented in the invoice, the owner or occupant may, within two (2) weeks after receipt of the invoice, request a hearing to consider whether the costs should be modified, adjusted or abated.

History: Ord. No. 13-012, § 4, adopted 8-13-13.

Section 14-115. Hearing and appeal process.

If a property owner or occupant objects to proposed removal, painting over or concealment of graffiti and requests a hearing as provided in Subsection (a) of Section 14-113, or if an owner or occupant requests a cost hearing as provided in Subsection (b) of Section 14-114, then the Mayor or the Administrator, upon the authority of the Mayor, shall provide for an administrative hearing to allow the owner or occupant an opportunity to present testimony and evidence tending to show why the graffiti should not be removed, painted over or concealed, or why the assessed costs should be modified, adjusted or abated. The hearing shall be before the Mayor, the Administrator or a hearing officer appointed by the Mayor. The owner or occupant of the affected property shall be provided at least 72 hours notice of the hearing. The Mayor, Administrator or hearing officer acting on behalf of the Mayor shall render a decision within five (5) business days after the hearing is concluded, and the owner or occupant shall be provided notice of the decision by certified mail or other reliable method of notification. Any person aggrieved by a decision of the Mayor, Administrator or hearing officer after hearing on a matter relating to graffiti removal, painting over or concealment may, within ten (10) days following notice of such decision, appeal the decision to the Governing Body. Proceedings on an appeal to the Governing Body shall be de novo, and the Governing Body may affirm, reverse or modify the decision of the Mayor or hearing examiner. The decision of the Governing Body shall be final.

History: Ord. No. 13-012, § 5, adopted 8-13-13.

Sections 14-116 to 14-125. Reserved.

ARTICLE V. LANDMARK TREES

State law reference: NMSA 1978, § 3-18-27

Section 14-126. Purpose.

The purpose of this article is to enhance and preserve the rural character, environmental and aesthetic qualities, and land values in the Village of Corrales by providing for the nomination, designation, and protection of particularly significant trees, herein designated as Landmark Trees, either

on public property or, with the consent of the owner, on private property.

History: Ord. No. 06-01 § 1, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-127. Definitions.

As used in this article, the following terms shall have the meaning indicated:

Certified arborist means an individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.

Damage to a tree means any deliberate or voluntary action foreseeably leading to the death or significant permanent injury of the tree, or which places the tree in a hazardous condition or in an irreversible state of decline. Damage includes, but is not limited to, cutting, topping, girdling, poisoning, vandalizing, trenching or excavating within the dripline, altering the grade, paving in excess of fifty (50) percent of the area within the dripline, and excessive pruning.

Dripline means the outermost edge of the tree's canopy.

Landmark Tree means a tree or stand of trees that is designated as a landmark tree in accordance with the criteria and procedures established in this article.

MRGCD means the Middle Rio Grande Conservancy District.

Nominated tree means a tree or stand of trees that has been nominated for landmark status, in accordance with the provisions of this article, but which has not been designated as a Landmark Tree.

Removal means completely taking from the site, cutting to the ground, or extraction from the site.

Shrub means a woody plant of relatively low height, distinguished from a tree by height and by typically having several stems.

Stand of trees means a group of trees of the same species related by age or proximity located within a limited and definable geographic area.

Tree means a perennial plant having a self-supporting woody main stem or trunk usually characterized by the ability to grow to considerable height and size, and by the development of woody branches at some distance above the ground, but does not include shrubs. As used in this article, *tree* shall include *stand of trees* unless the context clearly requires otherwise.

History: Ord. No. 06-01 § 2, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-128. Tree preservation advisory committee.

(a) There is hereby created the Tree Preservation Advisory Committee, which shall consist of five (5) volunteer members appointed by the Mayor, with the advice and consent of the Governing Body.

(b) The Tree Preservation Advisory Committee, at its discretion, may seek the services of a certified arborist, acting without compensation from the Village, to provide technical expertise and guidance to the Committee. The certified arborist need not be a resident of the Village.

(c) The Tree Preservation Advisory Committee shall meet periodically, as often as is necessary to provide for the efficient performance of its duties as established in this article. Special meetings may be called by the chairman, or by any two members of the Committee. All meetings of the Committee shall be

open to the public.

History: Ord. No. 06-01 § 3, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-129. Nomination and selection of trees for landmark status.

(a) Any person or organization may nominate a tree for designation as a Landmark Tree by presenting to the Tree Preservation Advisory Committee a written nomination and supporting documentation, which shall include, as a minimum:

- (1) The location of the tree;
- (2) A photograph of the tree;
- (3) A brief written description of the tree, stating the reasons why the tree qualifies for status as a Landmark Tree; and
- (4) Written approval from all property owners (with the exception of the Village of Corrales) including easement holders or those with rights to use an easement within 50 feet of the dripline of a tree to be designated as a Nominated or Landmark Tree.

Any written approval required by this section must be notarized, and must include approval of all owners of the property.

(b) Within ninety (90) days after receiving a nomination, the Tree Preservation Advisory Committee shall review the recommendation and supporting materials, and shall make a recommendation to the Village's Planning and Zoning Commission whether the tree should be designated as a Landmark Tree.

(c) To qualify for designation as a Landmark Tree, a tree must as a minimum meet at least one of the following criteria:

- (1) Exceptional size for the species as measured by caliper, height, and/or breadth;
- (2) Old age for the species;
- (3) Distinctive and/or exemplary form for the species;
- (4) Historical significance by virtue of location or history, including but not limited to proximity to a historic building, site, or road, or association with an historic event or person in the Village's past; or
- (5) Position as a defining feature in the Village landscape due to location, public view, history, or similar qualities.

(d) No tree of a species that has been determined to be invasive or noxious by the State of New Mexico shall be designated as a Landmark Tree, and no such tree shall be qualified to be nominated for Landmark Tree status. It is desirable that trees nominated as Landmark Trees shall be of species native to the Corrales area.

(e) For purposes of evaluating nominations, the Tree Preservation Advisory Committee shall develop a set of criteria for the evaluation of trees meeting at least one of the minimum qualifying criteria. The committee may include such criteria as the Tree Preservation Advisory Committee deems appropriate, and may include but need not be limited to trunk circumference, height, crown spread, symmetry, or distinctive form, location and history. The Committee may, but need not necessarily, employ a set of

criteria developed for use by another governmental entity, either inside or outside New Mexico.

(f) If the Tree Preservation Advisory Committee determines that a tree nominated for landmark status meets at least one of the minimum qualifying criteria, then the Committee shall evaluate the nomination and forward it to the Planning and Zoning Commission with a recommendation either to designate the tree as a Landmark Tree, or not to so designate it, with a brief explanation of the reasons for the Committee's recommendation.

(g) Notice of any meeting of the Planning and Zoning Commission where a proposal to designate a tree as a Landmark Tree will be considered must include individual notice, by certified mail, of the meeting date, time and location, including notice of the proposed Landmark Tree designation, to each owner of private property any portion of which is within fifty (50) feet of the dripline of the tree. In addition, a notice containing the same information shall be conspicuously placed in the most publicly visible location adjacent to the proposed Landmark Tree at least fifteen (15) days prior to the scheduled meeting.

(h) In determining whether to designate a particular tree for landmark status, the Planning and Zoning Commission shall not be bound by the recommendation of the Tree Preservation Advisory Committee.

(i) If a tree properly nominated for landmark status and meeting at least one of the minimum qualifying criteria is not designated by the Planning and Zoning Commission as a Landmark Tree, then it shall nonetheless be designated as a Nominated Tree and placed on a register of Nominated Trees for possible future consideration as a Landmark Tree. A Nominated Tree is eligible for reconsideration by the Planning and Zoning Commission for landmark status, on the recommendation of any person or entity, at any time after one (1) year following the date of the Planning and Zoning Commission's decision. A request for reconsideration must be accompanied by a demonstration, to the satisfaction of the Tree Preservation Advisory Committee, that all owners of property or easement within fifty (50) feet of the dripline of the tree consent to the proposed designation and that all other necessary conditions for nomination still apply. Notice of the meeting at which a Nominated Tree will be reconsidered for Landmark Tree status shall be the same as required upon an original nomination.

(j) If a tree located on public property is designated as a Landmark Tree, the Village shall place a suitable marker on the designated tree bearing substantially the following statement: "LANDMARK TREE - do not trim or remove without Village of Corrales approval."

(k) If a tree located entirely or partly on private property is designated as a Landmark Tree, the Village shall promptly notify the property owner or owners of the tree's status as a Landmark Tree, and shall include notice of the restrictions on damage or removal of Landmark Trees, the requirement of notification to future landowners, and the penalties for improperly damaging or removing a Landmark Tree, as provided in this article.

(l) Any person dissatisfied with a decision of the Planning and Zoning Commission regarding designation or non-designation of a tree as a Landmark Tree may appeal that decision within 20 days, in writing, to the Governing Body. The Governing Body, on appeal, may affirm or reverse the decision of the Planning and Zoning Commission. The decision of the Governing Body shall be final.

History: Ord. No. 06-01 § 4, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-130. Protection of landmark trees.

(a) No person shall remove or damage any Landmark Tree, whether on public or private property, except as otherwise provided in this article. Normal pruning or trimming of trees on private property is expressly permitted. Except in case of emergencies as provided in this article, normal pruning or

trimming is limited to pruning or trimming for the health and maintenance of the tree, in accordance with the current ANSI A300 standards of the Tree Care Industry Association. Excessive pruning or damage to the root system that threatens the life or health of any Landmark Tree is prohibited, except as otherwise specifically provided in this section.

(b) Any property owner desiring to remove a Landmark Tree shall submit an application for Landmark Tree removal to the Tree Preservation Advisory Committee, stating the reasons for the removal request. Within thirty (30) days following receipt of the application, the Tree Preservation Advisory Committee shall forward the application for Landmark Tree removal to the Village's Planning and Zoning Administrator, with the Committee's recommendation whether to approve the application. The Planning and Zoning Administrator shall promptly either grant or deny the application. The Planning and Zoning Administrator shall take into account the recommendation of the Committee, but shall not be bound by that recommendation.

(c) An application for Landmark Tree removal may be granted if the Planning and Zoning Administrator finds that:

- (1) The Landmark Tree is diseased or damaged and is not reasonably likely to survive through the next growing season;
- (2) The Landmark Tree poses a hazard to structures or to the safety of the public or nearby residents;
or
- (3) The Landmark Tree, if not removed, will cause a substantial hardship in the use of real property, and removal is requested by the affected landowner.

(d) A Landmark Tree may be removed without a permit if:

- (1) The Landmark Tree has been significantly damaged by thunderstorm, windstorm, flood, earthquake, fire, or other natural event and is determined to be hazardous by a peace officer, fireman, code enforcement officer, or the Village's Planning and Zoning Administrator; or
- (2) Removal of the Landmark Tree is determined to be necessary by Fire Department personnel actively engaged in the suppression of a fire.

If a Landmark Tree is removed without a permit for any reason, the person causing the Landmark Tree to be removed shall promptly notify the Tree Preservation Advisory Committee of the Landmark Tree's removal and the reason for the removal.

(e) Notwithstanding any other provision of this article, duly authorized personnel or agents of the MRGCD may remove, cut, trim or prune a Landmark Tree that is threatening to interrupt or has interrupted utility service, or that interferes with the purpose of the utility easement, or impedes the flow of water in, the integrity of, or access to facilities owned or managed by the MRGCD. Such removal, cutting, trimming or pruning shall be the minimum required to meet reasonable safety standards.

(f) Any owner who sells real property upon which a Landmark Tree is located, or real property any part of which is within the dripline of a Landmark Tree, shall, before the sale, disclose to the buyer or buyers of such real property the existence of the Landmark Tree and the limitations and prohibitions on trimming, pruning, cutting, damaging, or removing such Landmark Tree, as set forth in this article. Disclosure shall likewise be made on any applications related to development of real property upon which a Landmark Tree is located or real property any part of which is within the dripline of a Landmark Tree, including but not limited to residential site plans, site development plans, plats, and development agreements. Failure to provide such notification shall be a violation of this article.

(g) Upon designation of any tree as a Landmark Tree and continuing for so long as such tree remains designated as a Landmark Tree, any and all land purchase agreements, deeds, deeds of trust, mortgages, grants of easement, subdivision plats, real estate contracts, and any other documents reflecting any change of ownership interest in any real property on which the Landmark Tree is located, or any portion of which falls within the dripline of the Landmark Tree, shall include reference to the Landmark Tree and shall note by reference the restrictions on removal, cutting, trimming or pruning of the Landmark Tree as provided in this article.

History: Ord. No. 06-01 § 5, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-131. Protection of nominated trees.

(a) Owners of real property containing any tree that has been designated as a Nominated Tree, but not as a Landmark Tree, are encouraged to preserve and protect the Nominated Tree to the extent reasonably possible. However, such protection is entirely voluntary, and there shall be no criminal or civil penalty for removal or damage to such Nominated Tree.

(b) In the event a landowner removes a Nominated Tree, the landowner is requested to advise the Tree Preservation Advisory Committee so that the tree may be removed from the Village's list of Nominated Trees.

History: Ord. No. 06-01 § 6, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-132. Lists of landmark trees and nominated trees.

The Tree Preservation Advisory Committee shall maintain current lists of all Landmark Trees and Nominated Trees, which shall be available to the public on request.

History: Ord. No. 06-01 § 7, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-133. Enforcement.

The Village's Planning and Zoning Administrator shall be responsible for enforcement of this article. The Planning and Zoning Administrator, on his or her own authority or on the recommendation of the Tree Preservation Advisory Committee, may seek a judicial order to prohibit anticipated violations of this article, or may seek the imposition of penalties against violators of this article.

History: Ord. No. 06-01 § 8, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Section 14-134. Penalties.

Violation of this article shall be punishable by a fine of not more than \$500. Each instance of damage to, or removal of, a Landmark Tree shall be a separate violation.

History: Ord. No. 06-01 § 9, adopted 4-11-06; Ord. No. 09-010, adopted 7-14-09.

Sections 14-135 to 14-150. Reserved.

ARTICLE VI. WATER CONSERVATION

Section 14-151. Aerial sprinkling of lawns and landscaping.

(a) For purposes of this section, the following term shall have the meaning indicated:

Aerial sprinkling means the distribution of water onto land through the atmosphere from a fixed mechanical or spray device, and includes but is not limited to the use of fixed lawn sprinkler heads, and

fixed rotating sprinklers, but does not include hand-held or portable sprinkling devices.

(b) Aerial sprinkling of lawns and landscaping is prohibited between the hours of 11:00 a.m. and 7:00 p.m. daily.

(c) This section shall not be construed to limit flood irrigation from the irrigation canals and laterals operated, maintained, controlled and regulated by the Middle Rio Grande Conservancy District.

(d) This section shall be reviewed in one (1) year.

History: Ord. No. 13-011, adopted 8-13-13.