



## VILLAGE OF CORRALES

### ORDINANCE NO. 09-010

**AN ORDINANCE AMENDING CHAPTER 14, ARTICLE V (LANDMARK TREES), OF THE CODE OF ORDINANCES OF THE VILLAGE OF CORRALES, BEING ORDINANCE NO. 06-01, ADOPTED APRIL 11, 2006, AS AMENDED AND SUPPLEMENTED; MAKING TECHNICAL CORRECTIONS, CLARIFICATIONS AND AMENDMENTS; AND DEFINING AND AMENDING THE DEFINITIONS OF TERMS;.**

**WHEREAS**, the Tree Preservation Advisory Committee of the Village of Corrales has undertaken a comprehensive review of various provisions of the Code of Ordinances (the "Code") of the Village relating to tree preservation and landmark trees in the Village; and

**WHEREAS**, in connection with its review the Tree Preservation Advisory Committee has recommended to the Village Council, the governing body of the Village ("Governing Body") that the Governing Body consider the adoption of amendments to Chapter 14, Article V (Landmark Trees) of the Code, as provided herein; and

**WHEREAS**, upon the recommendation of the Commission the Governing Body finds and determines that technical changes, amendments, clarifications and corrections should be made in Chapter 14, Article V of the Code, as herein set forth.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Village of Corrales, New Mexico, that Chapter 14, Article V of the Code of Ordinances of the Village of Corrales shall be, and hereby is, amended to read as follows:

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#### ARTICLE V. LANDMARK TREES

State law reference: Trees and shrubs, 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.*

##### 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.*

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. (Deleted: At least one member of the Tree preservation Advisory Committee shall be a person trained or experienced in arboriculture.)

(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 herein. 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.*

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;
- (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.
- (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, mailed no later than fifteen (15) days prior to the scheduled meeting, of the meeting date, time and location, including notice of the proposed Landmark Tree designation, to each owner of property or easement 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 herein.

(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.*

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 herein. 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 person 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 herein. 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 of the 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.*

#### 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.*

#### 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.*

#### 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.*

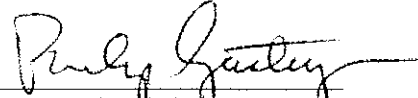
#### Section 14-134. Penalties.

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.*

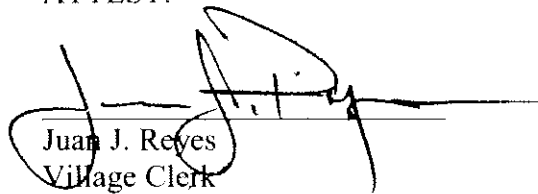
**PASSED, APPROVED AND ADOPTED** by the Governing Body of the Village of Corrales, New Mexico, this 14<sup>th</sup> day of July, 2009.

APPROVED:



The Honorable Philip Gasteyer  
Mayor

ATTEST:



Juan J. Reyes  
Village Clerk