

# VILLAGE OF MELROSE – CODE OF ORDINANCES

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**RESIDENCE.** The place adopted by a person as his/her place of habitation, and to which, whenever he/she is absent, has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps will be deemed his/her residence.

**ROADWAY.** That portion of a street improved, designed, or ordinarily used for vehicular traffic.

**SIDEWALK.** Any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line intended for the use of pedestrians.

**SIGNATURE, SUBSCRIPTION.** The word “signature” or the word “subscription” will include a mark when the person cannot write, when his/her name is written near such mark and is witnessed by a person who writes his/her own name as witness.

**STATE.** The words “the state” or “this state” will mean the State of New Mexico.

**STREET.** Public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, public ways and approaches thereto, and other public thoroughfares in the Village devoted to public use.

**TENANT, OCCUPANT.** When applied to a building or land, will mean any person who occupies the whole or part of such building or land, whether alone or with others.

**VILLAGE.** The words “the Village” will mean the Village of Melrose.

**WILL, MAY.** The word “will” is mandatory, and the word “may” is discretionary.

**WRITING, WRITTEN.** Includes typewriting, printing on paper, and any other mode of representing words and letters.

**YEAR.** The word “year” will mean a calendar year.

The rules of construction and definitions set forth above will not be applied to any section of this Code of Village ordinance which will contain any express provision excluding such construction or definition, or when the subject matter or context may be repugnant thereto.

**CHAPTER 1**

**SECTION 1-1. INCORPORATION BY REFERENCE.**

All standard codes, rules, regulations, and other subject matter herein or hereafter properly incorporated by reference, together with subsequent amendments thereto, pursuant to state law, and future incorporations by reference will be kept and preserved in the office of the Municipal Clerk.

**SECTION 1-2. PARENTHETICAL AND REFERENCE MATTER.**

The matter in parentheses at the end of sections is for information only, and is not a part of the Code. Citations to ordinances indicate only the source of such section and the text may or may not be changed by this Code. Reference matter not in parentheses is for information only and is not a part of this Code.

**SECTION 1-3. CATCHLINES OF SECTIONS.**

The catchlines of the sections of this Code printed in capitals are intended as mere catchwords to indicate the contents of the sections and will not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, will they be so deemed when any section, including its catchline, is amended or re-enacted.

**SECTION 1-4. REFERENCE TO CODE, CONFLICTS.**

In addition to the rules of construction and definitions specified in this chapter, the following rules will be observed in the construction of this Code:

1. All references to chapters, articles, or sections are to the chapters, articles, and sections of this Code unless otherwise specified.
2. If the provisions of different chapters of this Code conflict with or contravene each other, the provisions of each chapter will prevail as to all matters and questions growing out of the subject matter of such chapter.
3. If conflicting provisions be found in different sections of the same chapter, the provisions of the section which is last in numerical order will prevail unless such construction would be inconsistent with the meaning of the chapter.

**SECTION 1-5. POLICE POWER EXTENDED TO VILLAGE PROPERTY.**

The police power of the Village is hereby extended to include all lands or property owned or leased by the Village or any agency of the Village, and the general ordinances of the Village will be applicable on such property.

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### **SECTION 1-6. ALTERING CODE.**

It will be unlawful for any person to change or amend by additions or deletions, any part of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village to be misrepresented thereby; provided, that supplementation of this Code by authorized persons will be permitted.

### **SECTION 1-7. GENERAL PENALTY; CONTINUING VIOLATIONS.**

Whenever in this Code or in any ordinance of the Village, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided thereof, the violation of any such provision or failure to perform any such act will be punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or by both fine and imprisonment at the discretion of the court.

Each day any such violation or failure to perform such act continues will constitute a separate offense, unless otherwise specifically provided.

### **SECTION 1-8. PENALTY NOT EXCLUSIVE.**

The imposition of a penalty under the provisions of this Code will not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code. In the event any violation of this Code is designated a nuisance under the provisions of this Code, such nuisance may be summarily abated by the Village in addition to the imposition of a fine and/or imprisonment.

### **SECTION 1-9. SEVERABILITY OF PARTS OF CODE.**

The sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code will be declared invalid, unenforceable or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability or unconstitutionality will not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

### **SECTION 1-10. EFFECT OF REPEALS.**

The repeal of an ordinance or any portion thereof will not revive any ordinance in force before or at the time the ordinance is repealed took effect. The repeal of an ordinance will not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

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**CHAPTER 2**  
**ADMINISTRATION**

**SECTION 2-1. SCOPE OF ORDINANCES.**

The laws of the Village of Melrose will be enacted by the passage of ordinances.

**SECTION 2-2. PREPARATION.**

The Melrose Municipal Clerk will prepare all proposed ordinances with the advice and approval of the Village attorney.

**SECTION 2-3. CONSIDERATION RESTRICTED.**

No ordinance will be prepared for presentation to the Village Council unless requested by the Mayor or a Councilor or prepared by the Village attorney on his own motion, or directed by any department head.

**SECTION 2-4. CONTENTS.**

All ordinances presented for consideration by the Village Council will:

1. Be numbered consecutively;
2. Bear a title which will set forth in general terms its subject matter;
3. Contain an enacting clause;
4. Bear the date, signatures of the Mayor and attesting officer, and the seal of the Village.

**SECTION 2-5. LOG BOOK.**

The Melrose Municipal Clerk will keep a logbook in which the original of each ordinance adopted by the Village Council will be kept.

**SECTION 2-6. RESOLUTIONS.**

Resolutions may be used when the Village Council wishes to express an agreement of opinion concerning some matter of administration which comes within its official cognizance, and wants to provide for the disposition of that particular administrative business. There is no substantial difference between a resolution and formal minute action, and either may be used at the Village Council's discretion.

**SECTION 2-7. RESOLUTIONS-FORM.**

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Resolutions will be numbered consecutively giving first the year, and will bear a title which will set forth in general terms its subject matter; will contain a resolving clause, and will bear the date, signatures of the Mayor and attesting officer, and the seal of the Village. The Municipal Clerk will keep a logbook within which is the original of each resolution considered, whether adopted or not.

### **SECTION 2-8. EFFECT.**

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the Village Council to make the same a part hereof, will be deemed to be incorporated into this Code so that reference to “The Code of Ordinances of the Village of Melrose, New Mexico” will be understood and intended to include such additions and amendments.

### **SECTION 2-9. MANNER.**

All ordinances passed subsequent to the adoption of this Code which amend, repeal, or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections, and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, will be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the Village Council.

### **SECTION 2-10. LANGUAGE.**

Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: “That section \_\_\_ of the Code of Ordinances of the Village of Melrose, New Mexico, is hereby amended to read as follows: . . . . “. The new provisions will then be set out in full as desired.

### **SECTION 2-11. NEW MATERIAL.**

In the event a new section not heretofore existing in the Code is to be added, the following language may be used: “That the Code of Ordinances of the Village of Melrose, New Mexico is hereby amended by addition of section (or article, chapter, etc.), to be numbered \_\_\_, which reads as follows: . . . . “. The new provision(s) will then be set out in full as desired.

In lieu of the provisions set forth above, when the Village Council desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the Village Council desires to incorporate into the Code, a provision

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in substantially the following language may be made part of such ordinance: “It is the intention of the Village Council, and it is hereby ordained that the provisions of this ordinance will become and be made a part of the Code of Ordinances of the Village of Melrose, New Mexico, and the sections of this ordinance may be renumbered to accomplish this.”

### **SECTION 2-12. REPEAL.**

All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article, number, chapter, or other number, as the case may be.

### **SECTION 2-13. SUBJECT TO GENERAL PENALTY.**

In the case of amendment by the Village Council of any section of this Code for which a penalty is not provided, the general penalty as provided in Section 1-7 of this Code will apply to the section as amended; or in case such amendment contains provisions for which a penalty is provided in another section in the same chapter, the penalty so provided in such other section will be held to relate to the section so amended, unless such penalty is specifically repealed therein.

### **SECTION 2-14. SUPPLEMENTATION OF CODE.**

By contract of Village personnel, supplements to this Code will be prepared and printed whenever authorized or directed by the Village Council. A supplement to the Code will include all substantive permanent and general parts of ordinances passed by the Village Council or adopted by initiative and referendum during the period covered by the supplement, and all changes made thereby in the Code during the period. The pages of a supplement will be so numbered that they will fit properly into the Code, and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages will be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

In preparing a supplement to this Code, the codifier (meaning the person, agency, or organization authorize to prepare the supplement) may make formal non-substantive changes, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivisions;
2. Provide appropriate catch lines, headings, and titles for sections and other subdivisions of the code printed in the supplement, and made changes in such catch lines, headings, and titles.
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code, and, where necessary, to accommodate new material, change existing section or other subdivision numbers;

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4. Change the words “this ordinance” or words of the same meaning to “this chapter”, “this article”, “this division”, etc., as the case may be, or to “sections \_\_\_ to \_\_\_ “ (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
5. Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case will the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**SECTIONS 2-15 through 2-25. RESERVED.**

**SECTION 2-26. SALARIES OF MAYOR, MAYOR PRO TEM, COUNCIL MEMBERS**

The salaries of the Mayor, Mayor Pro Tem, and individual Council members are fixed as follows:

Mayor:	\$210.00 per meeting
Mayor Pro tem:	\$100.00 per meeting
Council members:	\$100.00 per meeting

These salaries will remain effective unless and until amended by future ordinance.

**SECTION 2-27. COMMERCIAL, INDUSTRIAL BONDS, DECLARATION OF POLICY**

It is the policy of the Village to encourage the relocation or expansion of manufacturing, industrial or commercial enterprises in or within fifteen (15) miles of the corporate limits thereof, and to that end, to issue revenue bonds pursuant to the Commercial and Industrial Projects Bond Act, Laws 1955, Chapter 234, and to take all necessary action with respect to projects approved by the Village Council upon application made in accordance with the requirements of this section.

It is the duty of the Village Council to give prompt and energetic attention to the applications made pursuant to this statute.

The Village Council will itself make all necessary determinations of the desirability of projects and will not delegate this determination to any agent, contractor, or employee of the Village.

The Village will not employ the provisions of the Commercial and Industrial Project Bond Act with regard to industries presently located in other parts of the State of New Mexico if the result of such action is to induce the removal of those industries from their present location.



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The Village will require information and proof of such matters which will establish the bona fide purposes of the applicant, while not unnecessarily divulging information to the competitive disadvantage of the applicant.

The Village will, in performing its duties, seek to protect and enlarge the good fiscal reputation of the community.

Materials supplied under the following sections will not be made public unless the Village Council, at a public meeting, agrees to issue the revenue bonds provided hereunder, but this will not preclude the Village Council from giving such public notice of its consideration of the application as necessary to attract the comments and suggestions of the community.

All revenue bonds issued and sold under the provisions of this section will be redeemable and carry a due date of not less than ten (10) years, nor more than thirty (30) years from the date of issue.

All revenue received from rentals, or other income, from property purchased with the proceeds of such revenue bonds will be applied toward payment of same.

### **SECTION 2-28. FORM OF APPLICATION.**

An application hereunder will be filed by the corporation, partnership, proprietorship, or other organizations, which will own, or propose to purchase or lease from the Village, the assets of the projects as of the date of the application. The application will be filed in triplicate with the Village Council, will be typewritten or printed, and will contain the information and documents specified in this section.

### **SECTION 2-29. CONTENTS OF APPLICATION.**

The applicant under the provisions of this section will furnish such relevant information and documents as may be required by the Village Council in order to evaluate the application.

### **SECTION 2-30. EXECUTION OF APPLICATION.**

At least one (1) copy of each application filed under this section will be manually signed by the applicant, its principal executive officer, principal financial officer, its comptroller or principal accounting officer, and the majority of its board of directors. If only one copy of the application will be manually signed, each other copy thereof will be confirmed.

### **SECTION 2-31. REVIEW OF MATERIAL.**

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Upon receipt of the material required to be submitted with the application, the Village Council will review it, availing themselves of the assistance of the Chamber of Commerce and its staff, and such other persons in the business, commercial, and industrial community who, in their judgment, may have experience and understanding of the matters sufficient properly to evaluate the application. The applicant may be required to furnish additional information or to elaborate or explain matters connected therewith. Upon the completion of this review, the Village Council will accept or reject the application.

### **SECTION 2-32. ISSUANCE OF BONDS.**

If the Village Council approves the application, it will fix a date on which it will adopt an ordinance providing for the issuance of revenue bonds, and on that date, will adopt such ordinance setting forth the terms upon which the Village will acquire such project, and will issue such bonds.

### **SECTION 2-33. CLOSING.**

On such date and at such time and place as the Village Council will determine, all transactions required in connection with the project and the issuance of the revenue bonds under the provisions of this section will be closed.

### **SECTION 2-34. FEES.**

All costs, expenses, and other charges in connection with any action or proceeding under the Commercial and Industrial Project Bond Act will be paid by the applicant. The Village Council may require the payment in advance in an amount estimated to be adequate to cover foreseeable expenses.

### **SECTION 2-35 through 2-44. RESERVED.**

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**CHAPTER 3**  
**ADVERTISING**

**ARTICLE I. IN GENERAL.**

**SECTION 3-1. POSTING GENERALLY.**

No person will post any bills, signs, posters or advertisements on any buildings, fences poles, or other property belonging to another without the consent of the owner thereof. Such consent will be secured in writing, and such written consent will be exhibited by the person having the same to any police officer on demand.

**SECTION 3-2. SIGNS, BANNERS CROSSING THE STREETS.**

No person will erect or place any sign or banner of wood, cloth, metal, or other material across any street or sidewalk in the Village without permission of the Municipal Clerk.

**SECTION 3-3. DESTROYING LAWFUL POSTERS.**

It will be unlawful for any person to wrongfully and maliciously tear down, deface, or cover up any posted advertisement or bill of any person when the same is lawfully posted and put up during the time such sign or advertisement is of value.

**SECTION 3-4. MARKING ON STREETS, WATER TOWERS, SIDEWALKS PROHIBITED**

It will be unlawful for any person to advertise, or attempt to advertise, by marking or painting on any of the streets, water towers, or sidewalks within the Village.

**SECTION 3-5. SIGNS IN PUBLIC RIGHTS-OF-WAY RELATING TO CHARITABLE CIVIC SERVICE**

Signs, banners, billboards and similar structures and objects directly relating to charitable, historical, religious or other civic services and non-profit activities may be installed in the public rights-of-way upon permission by the Municipal Clerk.

**SECTION 3-6. AMPLIFYING EQUIPMENT RESTRICTED.**

It will be unlawful for any person to advertise any goods, wares, or merchandise of any kind by the use of amplifying equipment used by or mounted on any vehicle without first obtaining a permit therefore from the Municipal Clerk.

**SECTION 3-7 through 3-20. RESERVED.**

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**ARTICLE II. DISTRIBUTION OF HANDBILLS**

**SECTION 3-21. DEFINITIONS.**

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them:

**HANDBILL.** Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet or other printed or otherwise reproduced original or copies of any matter of literature.

**NEWSPAPER.** Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statutes or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, will mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public, and will mean and include any other copyrighted material.

**VEHICLE.** Every device in, upon, or by which any person or property is or may be transported or drawn upon any road, street, or highway, including devices used exclusively upon rails or tracks.

**SECTION 3-22. EXEMPTION FOR MAIL AND NEWSPAPERS.**

The provisions of this article will not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers will be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

**SECTION 3-23. PERMISSION REQUIRED.**

It will be unlawful for any person to distribute handbills within the Village of Melrose without first obtaining permission to do so from the Municipal Clerk.

**SECTION 3-24. INHABITED PRIVATE PREMISES.**

No person will throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, such person, unless requested by anyone upon such premises if such handbill is so placed or deposited as to secure or prevent the same from being blown or drifted about such

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premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulation.

**SECTION 3-25. PROHIBITED WHERE PROPERLY POSTED.**

No person will throw, deposit, or distribute any handbill upon any private premises if requested by anyone therein not to do so, or if there is placed on such premises a sign bearing the words: “No Trespassing”, “No Peddlers or Agents”, or any similar notice, indicating in any manner that the occupants of such premises do not wish to have their right of privacy disturbed, or to have any handbills left upon such premises.

**SECTION 3-26. DEPOSITING ON UNINHABITED, VACANT PREMISES.**

It will be unlawful for any person to throw or deposit any handbill in or upon any private premises which is uninhabited or vacant.

**SECTION 3-27. PLACING ON VEHICLES.**

It will be unlawful for any person to throw or deposit any handbill in or upon any vehicle.

**SECTION 3-28. RESTRICTED IN PUBLIC PLACES.**

It will be unlawful for any person to hand out or distribute or sell any handbill in any public place; except that a handbill may be personally delivered to any person willing to accept the same.

**SECTION 3-29 through 3-35. RESERVED.**

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**CHAPTER 4**  
**AMUSEMENTS**

**SECTION 4-1. BOND, LIABILITY INSURANCE REQUIRED FOR  
AMUSEMENT RIDES**

No person will conduct, operate, manage or sponsor any Ferris wheel, merry-go-round, or any other amusement ride operated for hire or for the purpose of promoting or advertising any trade or business, without first filing with the Municipal Clerk a bond or certificate of liability insurance, in the amount of at least one million dollars (\$1,000,000.00), indemnifying the public against damages sustained by reason of the operation of such ride(s). Such bond or certificate of insurance will apply to all persons, whether or not a license or permit is required by any other provision of this Code, state law, or Village ordinance, rule, or regulation.

**SECTION 4-2 through 4-10. RESERVED.**

**CHAPTER 5**  
**ALCOHOLIC BEVERAGES**

**SECTION 5.1. DEFINITION.**

The term “alcoholic liquor” as used in this chapter will include all liquors or liquids used or intended to be used for beverage purposes containing more than one-half of one percent of alcohol by volume.

**SECTION 5.2. SALE TO, CONSUMPTION, POSSESSION BY MINORS.**

It will be unlawful for any person, except the parent, guardian, or spouse of anyone under the age of twenty-one (21) years, or adult person in whose custody any court has committed such person under the age of twenty-one (21) years for the time, outside the actual, visual personal presence of such parent, guardian, spouse, or the adult person in whose custody any court has committed the person under the age of twenty-one (21) years, to do any of the following acts:

1. To sell, serve or give any alcoholic liquor to a person under the age of twenty-one (21) years.
2. To buy alcoholic liquor for, or to procure the sale or service of alcoholic liquor to a person under the age of twenty-one (21) years.
3. To deliver alcoholic liquor to a person under the age of twenty-one (21) years.
4. To aid or assist a person under the age of twenty-one (21) years to buy, procure, or be served with alcoholic liquor.

**SECTION 5-3. PURCHASE BY MINORS.**

It will be unlawful for any person under the age of twenty-one (21) years to buy, attempt to buy, receive, drink or permit him/herself to be served with any alcoholic liquor, except when accompanied by his/her parent, guardian, spouse, or an adult person into whose custody he/she has been committed for the time by any court, who is actually visibly and personally present at the time such alcoholic liquor is bought or received or drunk by him/her or served or delivered to him/her.

**SECTION 5-4. MISREPRESENTATION.**

In the event any person except a person under the age of twenty-one (21) years will procure any other person to sell, serve or deliver any alcoholic liquor to a person under the age of twenty-one (21) years by actual constructive misrepresentation of any facts calculated to cause, or by the concealment of any facts, the concealment of which is calculated to cause the person selling, serving or delivering such alcoholic liquor to such person under the age of twenty-one (21) years is legally entitled to be sold, served, or delivered alcoholic liquor, and actually deceiving him/her by such misrepresentation or concealment, then that person, and not the person so deceived, will be guilty of an offense.

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**SECTION 5-5. CONSUMPTION IN PUBLIC.**

It will be unlawful for any person to drink or use any alcoholic liquor of any kind in any public dance hall, poolroom, bowling alley, or in any street, or in any other public place within the corporate limits of the Village.



**CHAPTER 6**  
**ANIMALS AND FOWL**

**SECTION 6-1. DEFINITIONS.**

The following words and phrases will have the meanings respectively ascribed to them for the purposes of this chapter.

**ANIMAL.** Any dog or cat or vertebrate member of the animal kingdom, excluding humans.

**ANIMAL CONTROL OFFICER.** Any person or persons designated or appointed to the position by the Mayor of the Village of Melrose, qualified to perform such duties under the laws of the State of New Mexico and the ordinances of the Village of Melrose.

**ANIMAL CONTROL SHELTER.** Any pound, lot premises, holding pen(s), and/or building maintained by any government body or hired by the Village of Melrose for the implementation of control, care, or custody of animals.

**AUCTIONS.** Any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter. This does not apply to individual sales of animals by owners.

**BITE.** Any actual puncture or tear of the skin inflicted by the teeth of an animal.

**CIRCUS.** A commercial variety show featuring animal acts for public entertainment.

**COMMERCIAL ANIMAL ESTABLISHMENT.** Any establishment or premises operating for profit, where six (6) or more dogs and/or cats or aggregate thereof, over four (4) months of age are kept or maintained for any purpose whatsoever. It includes kennels, grooming parlors, and pet shops.

**CONFINEMENT.** To detain or isolate an animal.

**DOMESTIC ANIMAL.** Any animal of a type normally kept as a pet for the enjoyment of its owner, including dogs and cats.

**ENCLOSED PREMISES.** Any parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

**ESTABLISHMENT.** A place of business together with its ground and equipment.

**ESTRAY.** Any animal found running at large.

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**GROOMING PARLOR.** Any commercial animal establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetological services.

**HOBBY BREEDER.** Any non-profit animal facility or premises operated by a person involved in controlled breeding of animals which are registered with a recognized registry organization, or who keeps a breed which is not eligible to be so registered, if this breed has been approved by the Mayor.

**KENNEL.** Any commercial animal establishment or premises where animals are kept, boarded, or maintained; or wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling of dogs or cats.

**LEASH.** A chain, strap, or cord of sufficient substance to hold under control the animal attached thereto, and shall not be longer than six (6) feet.

**LICENSED VETERINARIAN.** A person with a Doctor of Veterinary Medicine Degree, licensed to practice in the State of New Mexico.

**LIVESTOCK.** Horses, cattle, pigs, sheep, goats, rabbits, and fowl.

**MAYOR.** The Mayor of the Village of Melrose, or his/her designated representative.

**NON-PROFIT ANIMAL FACILITY.** Any facility or premises, not operating for profit, where six (6) or more dogs and/or cats or the aggregate thereof, over four (4) months of age are kept or maintained. It includes shelters, refuges, private hobby, kennels, and hobby breeders, with the exception of State inspected veterinary hospitals, Federal inspected laboratory facilities and zoos.

**NUISANCE.** Including but not limited to, defecations, urination, disturbing the peace, emitting obnoxious or offensive odors, or otherwise endangers or offends the well being of the inhabitants of the Village of Melrose. It also includes any animal or animals which molests passersby or passing vehicles, attacks other animals, trespasses on school grounds, is repeatedly at large, damages private or public property, barks whines, or howls in an excessive, continuous, or untimely fashion.

**OWNER:** A person or persons who owns, harbors, or keeps or knowingly keeps, knowingly causes to knowingly permit an animal to be harbored or kept, or has an animal in his/her care, or who permits an animal to remain on or about his/her premises.

**PERFORMING ANIMAL EXHIBITION.** Any spectacle, display, act or event other than a circus in which performing animals are used.

**PERSON.** Any individual, household, firm, partnership, corporation, company, society, association, and every officer, agent, or employee thereof.

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**PET.** Any animal kept for pleasure rather than utility.

**PET SHOP.** Any commercial animal establishment or premises or part thereof maintained for the purchase, sale, exchange or hire of animals of any type, except the term shall not include livestock auctions.

**PREMISES.** A parcel of land and the structure(s) thereon.

**PRIVATE HOBBY KENNEL.** Any non-profit animal facility of premises where purebred dogs or cats are bred for personal use and enjoyment from animals privately owned or leased, and the resultant offspring are neither sold for resale to commercial outlets, nor for the purposes of research, testing, or laboratory experimentation.

**PROFESSIONAL ANIMAL PERMIT/BUSINESS REGISTRATION FOR A KENNEL.** A permit required of persons operating kennels, grooming parlors, pet shops, refuges, shelters, private hobby kennels, or hobby breeder facilities.

**QUARANTINE.** To detain or isolate an animal suspected of contagion.

**REFUGE.** Any non-profit animal facility or premise operated by a person who is a member of a recognized animal humane organization, for the purpose of bringing aid and comfort to more than five (5), but not exceeding twenty (20) animals.

**RESTRAINT.** Securing an animal by a leash or lead, or under the control of a responsible person, and obedient to that person's commands, or within the real property limits of the owner.

**RUNNING AT LARGE.** To be free of physical restraint or control beyond the boundaries of the enclosed premises of the owner.

**SHELTER.** Any non-profit animal facility whose primary function is to bring aid and comfort to animals.

**VACCINATION.** Protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the US Department of Agriculture, Bureau of Animal Industry, State of New Mexico Rabies Control Act of 1959, as amended; given in an amount sufficient to provide immunity from rabies for a minimum of one (1) year.

**VICIOUS ANIMAL.** Any animal which shall bite or in any other manner attack or attempt to attack a person or other animal within the Village, except that any animal that bites, attacks, or attempts to attack any person who is unlawfully upon the animal owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal. This shall not apply to animals under the control of a law enforcement or military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence, or other adequate means,

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from contact with the general public, or with persons who enter the premises with the actual or implied permission of the owner or occupant. Further, an animal shall be considered vicious when it has been adjudicated as such by a court of competent jurisdiction; or which has behaved in a manner that the person who harbors said animals knows or should reasonably know that the animal possesses tendencies to attack or bite persons or other animals.

**VILLAGE OF MELROSE, OR MELROSE.** Includes the area within the boundaries of the Village of Melrose, New Mexico.

**WILD ANIMAL.** Any animal that can normally be found in the wild state.

**ZOOLOGICAL PARK.** Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person, partnership, corporation, or government agency.

### **SECTION 6-2. ENFORCEMENT AND AUTHORITY.**

The civil and criminal provisions of this chapter will be enforced by those persons or agencies designated by the Village Council. It will be a violation of this chapter to interfere with a humane officer, an animal control officer, or a law enforcement officer in the performance of their duties. The Animal Control Officer shall have the authority and is directed to investigate upon probable cause any alleged violation of this chapter or any law of the State of New Mexico relating to the care, treatment, control, and prevention of cruelty to animals. The Animal Control Officer shall be authorized to inspect premises within the Village limits as necessary to perform his/her duties.

### **SECTION 6-3. INTERFERING WITH ENFORCEMENT.**

It shall be unlawful for any person to interfere with, molest, hinder, or prevent any Animal Control Officer or his/her duly authorized representatives in the discharge of their duties as herein prescribed, or to violate any of the provisions of this chapter. If the owner or occupant of any premises objects to the inspection or impoundment of any animal pursuant to law, a warrant for the inspection of said premises and impoundment shall be obtained from a court of competent jurisdiction. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection, investigation, or impoundment. No person shall take or attempt to take any animal held by the Animal Control Officer from the possession or custody of the Animal Control Officer without first paying all the fees and expenses connected with the taking, keeping, advertising or sale of the same, or shall interfere with the Animal Control Officer in the lawful discharge of his/her duties.

**SECTION 6-4. LIABILITY FOR DAMAGE TO PERSON OR PROPERTY.**

If any animal shall do any damage to either the body or property of any person, the owner or keeper, or if the owner or keeper is a minor, the parent or guardian of such minor, shall be liable for such damage regardless of the former viciousness of such animal or the owner's knowledge of such viciousness, unless such damage will have been occasioned to the body or property of a person, who at the time such damage was sustained, was committing a trespass or other tort, or was teasing, tormenting, or abusing such animal.

**SECTION 6-5. VACCINATION REQUIRED.**

It is the duty of all persons owning or keeping a dog or cat, or any member of the canine or feline family over the age of three (3) months to have such animals vaccinated against rabies in accordance with State law. The animal shall receive a booster within the 12-month interval following the initial vaccination. Every domestic dog and cat, or any member of the canine or feline family shall be revaccinated against rabies within 12 months if a 1-year vaccine is administered, or within 36 months if a 3-year vaccine is administered, with a rabies vaccine licensed by the United States Department of Agriculture and administered according to label recommendations. The "Compendium of Animals Rabies Control, published by the National Association of Public Health Veterinarians, Inc., shall be the reference for the route of inoculation and the type of vaccine.

The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate containing the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination, and the expiration date of the period of immunity. The tag shall be affixed by the owner or keeper to a collar or harness and shall be worn by the dog or cat for which the certificate is issued.

A current rabies tag shall be displayed on each dog or cat at all times unless the dog or cat is kept in an approved kennel, veterinary hospital, is appeared in an approved show, or is being trained by a professional trainer.

In general, if a non-estray dog or cat does not have an affixed rabies tab and is deemed critically injured or critically ill by the Animal Control Officer, he/she may then euthanize such animal with a report put into a file.

It is unlawful for the owner or keeper of any dog, cat, or any other member of the canine or feline family to fail to exhibit its certificate of vaccination upon demand by the Animal Control Officer, any law enforcement officer, or the Mayor.

A certificate of vaccination shall be presented to the Municipal Clerk when application is made for registration. No animal shall be subject to registration until such vaccination certificate is furnished showing current information.

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It is unlawful for any person to transfer any rabies tag from one animal to another. It shall be unlawful for any person to manufacture or cause to manufacture or have in his/her possession or under his/her control a stolen, counterfeit, or forged vaccination certificate as required under this chapter.

### **SECTION 6-6. RESTRAINT OF ANIMALS.**

All animals shall be kept under restraint to prevent them from running at large. Every owner or keeper of any dog, cat, or any other member of the canine or feline family will exercise proper care and control of his/her animals to prevent them from becoming a nuisance. Every female dog or cat shall be confined to a building or other secure enclosure so as to preclude other animals from attracting or being attracted to such female except for intentional breeding purposes.

Every person owning or having charge, custody, or care of control of any dog or cat shall keep such animal exclusively upon his/her premises either in an enclosed area, or on a chain or leash not less than six (6) feet in length. Dogs are permitted on the streets or public places of the Village only if on a secure leash not exceeding eight (8) feet in length and under immediate physical control of the person having custody thereof. It is unlawful for any person to chain or stake out any animal on any unenclosed premises in such a manner that it may go beyond the property line.

No dog or cat or other member of the canine or feline family is allowed on a public playground, swimming pool, or schoolyard.

The above provisions do not apply when such animal is participating in a bona fide animal show authorized by the Mayor and/or authorized by appropriate school official. Nothing in this section shall be construed to allow any animal under physical restraint, whether for training purposes or not, to commit any act defined as unlawful in this chapter.

Any person keeping or harboring any dog in the Village of Melrose in violation of the provisions of this section and upon conviction therefore shall be punished by a fine not to exceed \$50.00 for the first offense; \$100.00 for the second offense; and impoundment for any subsequent offense.

### **SECTION 6-7. FOWL AT LARGE.**

It shall be unlawful for any person to allow chickens, ducks, geese, guineas, or any other fowl to run at large within the corporate limits of the Village.

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### **SECTION 6-8. ANIMAL CARE IN GENERAL.**

It is unlawful for any person to fail, refuse, or neglect to provide any animal in his/her charge or custody, as owner or otherwise, adequate food, drink, shade, care, or shelter to maintain good health, or to carry an animal in or upon any vehicle in a cruel or inhumane manner; further, to provide veterinary care when needed to prevent suffering.

### **SECTION 6-9. CRUELTY.**

It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object; mutilate, burn or scald with any substance, over-drive or otherwise cruelly set upon any animal except that reasonable force may be employed to drive off vicious or trespassing animals. It is unlawful to consume for food any dog or cat; or to cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals, or between animals and humans.

### **SECTION 6-10. ABANDONMENT.**

It is unlawful for any person to abandon any animal or cause such abandonment within the Village of Melrose.

### **SECTION 6-11. DISEASED OR CRIPPLED ANIMALS OR BIRDS.**

It is unlawful for any person to keep any animal or bird which is known to be infected with any dangerous or communicable disease, or which is in an incurable and painful condition, including starvation. The Animal Control Officer or Mayor may impound such diseased or crippled animal or bird to be destroyed in accordance with the provisions of this chapter. All such animals or birds may be destroyed humanely as soon thereafter as it is conveniently possible.

### **SECTION 6-12. POISONOUS SUBSTANCES.**

It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

### **SECTION 6-13. INJURY TO ANIMALS BY VEHICLE.**

Any person who, as the operator of a motor vehicle, strikes an animal will stop at once and render such aid and assistance as may be possible, and will immediately report such injury or death to the animal's owner. In the event the animal's owner cannot be ascertained and located, such operator will at once report the incident to the appropriate law enforcement agency, or Animal Control Officer, or the humane society.

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### **SECTION 6-14. PROTECTED BIRDS.**

It is unlawful for any person to kill, shoot at, wound, take, capture, ensnare, trap, or in any other manner molest or injure any insectivorous, song, or other protected birds.

### **SECTION 6-15. KEEPING OF WILD ANIMALS.**

No person shall keep or permit to be kept on his/her premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibitions, or circuses. No person shall keep or permit to be kept any wild animal as a pet; however, the Village may issue a temporary permit for the keeping, care, and protection of an infant animal native to this area which has been deemed to be homeless.

### **SECTION 6-16. PERFORMING ANIMAL EXHIBITIONS.**

No performing animal exhibition or circus will be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner in which will cause, or is likely to cause physical injury or suffering. All equipment used on a performing animal will fit properly and will be in good working condition.

### **SECTION 6-17. DAMAGE.**

It is unlawful for any owner or keeper of any animal, either willfully or for failure to exercise due care of control to permit such animal to cause damage or nuisance to the person or property of another. If any animal kills or injures livestock, protected wildlife, or other domestic animal, the owner or keeper of such animal shall be liable for all damages that may be sustained thereby, to be recovered by the part so injured before any court having competent jurisdiction, regardless of the former viciousness of such animal or the owner's knowledge after it is known that the animal has killed or injured livestock, other animals and/or protected wildlife. It shall be the duty of the owner or keeper to surrender the animal to the Mayor or Animal Control Officer for impoundment and to be destroyed as provided herein.

It shall be the right of an owner of livestock and/or protected wildlife or domestic animal so killed or injured by the actions of any animal to kill the animal while it is upon property controlled by the owner of the livestock, protected wildlife, or domestic animal. Any animal impounded and a determination is made by the Mayor or Animal Control Officer that the animal has killed or injured livestock, other domestic animals or protected wildlife shall accordingly order that the animal be destroyed.



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### **SECTION 6-18. ANIMAL WASTE.**

The owner or keeper of every animal shall be responsible for the removal of any excreta deposited by his/her animal(s) on public walks, recreations areas or private property. Provisions must be made for waste disposal in accordance with nationally recognized professional standards which will prevent the spread of noxious or offensive odors and disease.

### **SECTION 6-19. SERVICE DOGS ALLOWED IN PUBLIC PLACES.**

It is unlawful for any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to debar or exclude therefrom any dog which has been trained to assist the blind, deaf, and/or handicapped for whom it was trained to assist, in conformance with State Law.

### **SECTION 6-20. NUMBER OF ANIMALS PERMITTED.**

It is unlawful for any person or household to keep, maintain, or harbor within the Village limits more than six (6) dogs or cats, or any combination thereof, over four (4) months of age, weighing 0 to 20 pounds each, or four (4) weighing over 21 pounds each without a permit. If any person or household has any number of dogs or cats, or any combination thereof, over the above limits, he/she shall obtain a permit from the Municipal Clerk. For animals over the limit set forth in this section, the cost of the aforesaid permit will be \$20.00 per animal, per year. The cost of the permit will be in addition to the registration of the animals.

### **SECTION 6-21. SPACE REQUIREMENT.**

The area of space required for each limit specified in Section 6-20 will be a minimum of 2500 square feet.

### **SECTION 6-22. ENFORCEABILITY.**

The provisions of sections 6-20 and 6-21 will be enforced by the Animal Control Officer. Fines may be imposed by the Municipal Judge for violation of these sections. The provisions of these sections will not apply to litters of puppies or kittens under the age of four (4) months of age that will be sold or adopted.

### **SECTION 6-23. UNCARED FOR ANIMALS.**

Whenever the Mayor or Animal Control Officer finds that any animal is or will be without adequate care because of injury, illness, incarceration, or other absence or neglect by the owner or person responsible for the care of such animal, he/she may impound such animal for protective care.

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**SECTION 6-24. ESTRAYS.**

In regard to any stray without an affixed rabies tag that is deemed critically ill or critically injured by the Animal Control Officer, the animal may be euthanized.

**SECTION 6-25. DEAD ANIMALS.**

Within twenty-four (24) hours of the death of an animal, the owner or keeper shall dispose of the carcass by burial at least three (3) feet underground in a suitable location or by other means approved by the Animal Control Officer or the Mayor.

The Animal Control Officer is authorized to pick up and dispose of all dead animals immediately upon discovery or notification by the owner or keeper of such animal.

**SECTION 6-26. DESTRUCTION OF ANIMALS.**

The Animal Control Officer or any law enforcement officer may impound any animal found running at large unaccompanied by and not under the control of its owner or handler, and further, the Animal Control Officer or law enforcement officer shall destroy any animal if it is in the act of attacking, pursuing, injuring, or killing any person, livestock, poultry, or other domestic animal.

Any person may kill any animal which is in the act of, or which the person has just witnessed, attacking, pursuing, injuring, or killing any person, livestock, poultry, or other domestic animals, whether or not the animal wears a rabies tag required by Section 77-1-3 NMSA 1978. There shall be no liability of the person in damages or otherwise for such killing.

The owner of livestock, and/or protected wildlife, or domestic animal may kill an animal under the provisions of Section 6-17.

Animals which cannot be brought to an animal shelter or impounded because of inability of the Animal Control Officer to extricate or capture an animal which the Officer has reasonable cause to believe may be vicious, dangerous, or infected with any incurable or dangerous disease, or in any painfully crippled condition shall be destroyed by the Animal Control Officer or law enforcement officer.

**SECTION 6-27. BUSINESS REGISTRATION/PERMIT FOR KENNEL.**

Any person of the Village of Melrose may obtain a Business Registration/Permit for a kennel through the Village under the following conditions:

1. Payment of the annual fee at the office of the Municipal Clerk.
2. Submission of the person's premises used for the keeping of animals to be an annual inspection by the Animal Control Officer;

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3. Maintenance of humane conditions of shelter, exercise, food, water, and sanitary standards in accordance with nationally recognized professional standards;
4. Regular and frequent waste disposal to prevent the spread of noxious or offensive odors and disease.

### **SECTION 6-28. ENCLOSURE FOR BREEDING ANIMALS.**

It is unlawful for any person to let any female animal to any male animal, except within an enclosure so arranged as to obstruct such animals completely from the view of all who have no proprietary interest in the breeding of such animals.

### **SECTION 6-29. BREAKING INTO ANIMAL CONTROL FACILITIES AND VEHICLES**

It is unlawful for any person to break into any holding pen, center, or animal control vehicle wherein animals are impounded by the Village of Melrose, or in any other way to remove or assist in the removal of any animal or equipment indigenous to such pens, center, or vehicle without lawful permission.

### **SECTION 6-30. RESERVED.**

## **ARTICLE II.** **REGISTRATION**

### **SECTION 6-31. REQUIRED.**

The owner or keeper of any dog three (3) months of age or over will cause his/her name, with the name and description of the dog(s) to be registered with the Melrose Municipal Clerk, and will pay each year to the Clerk, a registration fee of one dollar and fifty cents (\$1.50) for each dog; and will keep on the collar or harness of each dog so registered, a metallic tag furnished by the Village, with the number and year of registration marked thereon. Any dog that is at large and caught by the Animal Control Officer without a tag is in violation of this section. The owner or custodian of such dog(s) will be charged a fee of five dollars (\$5.00) per dog for not causing the dog(s) to be registered.

### **SECTION 6-32. CHANGE OF OWNERSHIP.**

If there is a change of ownership of a dog during the registration year, the new owner may have the current registration transferred to his/her name through the Municipal Clerk. No person will use for any dog certificate of vaccination or a registration tag issued for another dog.

**ARTICLE III.  
IMPOUNDMENT**

**SECTION 6-34. ESTABLISHMENT OF MUNICIPAL HOLDING FACILITY.**

It shall be the duty of the Village of Melrose to maintain or provide for the maintenance of a holding pen for the purpose of carrying out and enforcing the provisions of this article. Such holding facility will include at least the following:

1. Adequate pick-up and impounding of all stray and ownerless animals, and animals otherwise in violation of the provisions of this chapter.
2. Group holding facilities for stray, ownerless, and unvaccinated animals impounded for violation of the provisions of this chapter.
3. Individual isolation facilities for sick, biting, rabid and suspected rabid animals.
4. Facilities for the humane destruction of all unwanted and unclaimed animals.

**SECTION 6-35. AUTHORIZATION.**

Any animal found in violation of the provisions of this chapter may be seized and impounded by the Animal Control Officer, his/her representative(s), the Mayor, or any law enforcement officer, whether such animal shall be in the immediate presence of the owner or custodian or otherwise.

**SECTION 6-36. ALTERNATIVE ENFORCEMENT.**

If the ownership of any animal found in violation of the provisions of this chapter can be ascertained, such animal need not be impounded, but the Animal Control Officer may take the animal to its owner or custodian and cite such offending owner or custodian for the violation of allowing the animal to be running at large.

**SECTION 6-37. RIGHT OF ENTRY.**

The Animal Control Officer, his/her representative(s), or any law enforcement officer is hereby authorized to enter upon any unfenced lot, tract or parcel of land for the purpose of seizing and impounding any animal found thereon to be in violation of this chapter.

**SECTION 6-38. NOTIFICATION OF OWNER.**

Upon impounding any animal, it shall but the duty of the Animal Control Officer, his/her representative(s), or law enforcement officer to notify the owner of the animal impounded, if the owner can be identified by the Village registration tag. If the owner is not known, there will be posted at once on the bulletin board at City Hall, a notice containing the description of the impounded animal.

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### **SECTION 6-39. RIGHT TO REDEEM.**

The owner or custodian of any animal which has been impounded under the provisions of this article shall have the right to redeem the same upon the payment of any and all fees which may be due and payable for the impoundment of such animal; provided, however, the payment of such impoundment fees will not bar the imposition of any fines which may be imposed by the Municipal Clerk for the violation of this chapter.

### **SECTION 6-40. TIME FOR REDEMPTION.**

All animals impounded under the provisions of this article will be kept for a period of three (3) days unless sooner redeemed by their respective owners or custodians. A fraction of a day will be computed as being a full day for the purposes of this section.

### **SECTION 6-41. FEES.**

There will be imposed a fee of ten dollars (\$10.00) to the owner or custodian of an animal that is at-large and is caught by the Animal Control Officer. The fee for the redemption of any animal impounded in the Melrose holding facility under the provision of this article will be seven dollars and fifty cents (\$7.50) per day, including the day of impoundment. The second and subsequent time the animal is picked up by the Animal Control Officer, the fee will be twenty dollars (\$20.00) per day, including the day of impoundment. The fees will be collected by the Municipal Clerk and retained in the General Fund for expenses incurred by the Village. The Animal Control Officer will keep written records of all animals impounded. If the Animal Control Officer deems it necessary to take an animal to the pound in Clovis or another city, the owner or custodian of such animal shall pay the fees imposed by that pound, as well as mileage from Melrose to the pound and the cost of euthanasia, if necessary.

### **SECTION 6-42. DISPOSITION OF UNREDEEMED ANIMALS.**

Unclaimed and unadopted animals shall be humanely destroyed by or under the direction of the Animal Control Officer or law enforcement officer, after the provisions of this article have been met.

### **SECTION 6-43. ANIMALS RUNNING AT LARGE.**

It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot, public property, or any other unenclosed place in the Village or on private property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded. If the owner or custodian of such animal does not appear within three (3) days after such impoundment, and claim the animal by paying the fees for expenses herein described by the Village of Melrose, the animal shall be destroyed or otherwise disposed of.

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**SECTION 6-44. REPORTS.**

The Animal Control Officer will file such reports of activities by or under his/her control under the provision of this article, under oath, as are required by the Village Council.

**ARTICLE IV.**  
**RABIES CONTROL**

**SECTION 6-45. REPORT OF BITE CASES BY PHYSICIAN.**

Every physician will, within twelve (12) hours after his/her first professional attendance upon any person bitten by a dog, cat, or other animal, wild or domesticated, report the name, age, sex and address of the person so bitten, and the type and location of the bite. If possible, the physician will also report the address where the bite occurred, the name and address of the owner of the animal, and the description and immunization status of the animal. The report will be made to the Village Animal Control Officer or law enforcement agency.

**SECTION 6-46. REPORT OF BITE CASES – MINORS.**

The parent or guardian of a child bitten by a dog, cat, or other animal, wild or domesticated, where no physician attends such child, shall, within twelve (12) hours after first having knowledge that the child was so bitten, report to the Village Animal Control Officer or law enforcement agency, the name, age, sex, and address of the child so bitten, and type and location of the bite. If possible, the parent or guardian will also report the address where the bite occurred, the name and address of the owner of the animal, and the description and immunization status of the animal.

**SECTION 6-47. REPORT OF BITE CASES – ADULTS.**

If an adult is bitten by a dog, cat, or other animal, wild or domesticated, and no physician attends him/her, the adult, or if he/she is incapacitated, the person caring for him/her, will report to the Village's Animal Control Officer or law enforcement agency, the name, age, sex, and address of the adult so bitten, and the type and location of the bite. If possible, the adult will also report the address where the bite occurred, the name and address of the owner of the animal and the description and immunization status of the animal.

The report will be made within twelve (12) hours after the adult was so bitten, or if he/she is incapacitated, the report will be made within twelve (12) hours after the person caring for him/her first has knowledge that the adult was so bitten.

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### **SECTION 6-48. REPORT OF RABIES SUSPECT BY VETERINARIAN.**

It shall be the duty of every licensed veterinarian to report to the Village Animal Control Officer or law enforcement agency his/her diagnosis of any animal observed by him/her as a rabies suspect, whether the animal is wild or domesticated.

### **SECTION 6-49. REPORT OF RABIES SUSPECT BY INDIVIDUALS.**

Whenever a dog, cat, or other animal, wild or domesticated, is infected by rabies, or is suspected to be infected by an animal known or suspected to be infected by rabies, the owner of the animal or any person having knowledge thereof will forthwith notify the Village Animal Control Officer or law enforcement agency, giving a description of the animal and stating precisely where the animal may be found.

### **SECTION 6-50. DISPOSITION OF RABID OR SUSPECTED RABID ANIMALS.**

An animal that has rabies or is suspected of having rabies, and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall be confined at once in a secure place by the owner or person having custody or possession of the animal. The owner or person with custody and possession of such animal shall surrender said animal to the Animal Control Officer upon demand. The Animal Control Officer or Mayor shall then impound the animal and deal with the animal pursuant to State Law and the rules and regulations of the State Health and Environment Department or as specified herein.

Any animal so impounded, unless it can be destroyed sooner pursuant to law, shall be held until it is determined whether the animal has rabies or whether there is reasonable cause to believe that the animal should be destroyed or tested immediately in order to prevent possible danger to the public health or welfare or to any individual. If it is determined that the animal has rabies, the Animal Control Officer or the Mayor shall order the animal destroyed. If the animal dies or is destroyed before a determination has been made, its head shall be sent to the State Department of Health for examination for rabies.

### **SECTION 6-51. CONFINEMENT.**

The Village of Melrose, within its jurisdiction, shall confine any dog, cat, or other animal which has bitten a person or another animal so as to cause an abrasion of the skin, at the expense of the owner or person in charge of it, at the holding pen, or at a veterinary hospital, or at some other place, for a least ten (10) days, or longer, in accordance with the rules and regulations of the State Health and Environment Department, if deemed necessary by the Animal Control Officer or the Mayor.

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**SECTION 6-52. EXAMINATION OF ANIMALS BY OFFICERS.**

The Animal Control Officer or law enforcement officer shall be permitted by the person in charge of a dog, cat, or other animal which has bitten a person, to examine the animal at any time, and daily if desired, within a period of ten (10) days after the animal has bitten a person, to determine whether or not the animal shows signs of rabies.

No person will refuse, obstruct, or interfere with the above-referenced officer(s) or his/her duly authorized agent(s) in making the examinations.

**SECTION 6-53. EXAMINATION OF ANIMALS BY VETERINARIAN.**

Any animal confined after having allegedly bitten a person shall be examined by a veterinarian at least twice, once at the beginning and once at the end of the ten (10) day observation period. The expense for such examination shall be borne by the owner. If the owner refuses to accept the financial responsibility for a veterinarian visit before and after the animal is confined, the animal will be euthanized, and required rabies examinations will be conducted by the appropriate State agency.

**SECTION 6-54. RELEASE OF ANIMALS.**

An animal confined for observation under the provisions of this article will not be released until authorized by the Animal Control Officer.

**SECTION 6-55. QUARANTINE.**

The Animal Control Officer or law enforcement agency is authorized to pick up any animal which is alleged to have bitten a person, whether the biting was observed by the Animal Control Officer or law enforcement officer, or reported pursuant to Sections 6-45 through 6-47, and to quarantine such animal for a minimum of ten (10) days.

At the discretion of the Animal Control Officer, the quarantine may be on the premises of the owner, if the owner can show proof of current rabies vaccination for the animal, at the Clovis Animal Shelter, or at the owner's expense, in a veterinarian hospital of his/her choice; provided, however, that if a court of competent jurisdiction finds that the animal did not in fact inflict the alleged bite, then the animal shall be released at once, without payment for the cost of its care, and such cost will be paid by the Village.

Other animals may be included in the quarantine whenever, in the opinion of the Animal Control Officer, this is thought to be necessary.

When a rabies quarantine is established, it shall be for a minimum of ten (10) days after the occurrence of the alleged bite, or pursuant to the provisions set forth under State law. The Village may authorize modification of the quarantine with such provisions as may be deemed adequate or necessary for the control of the disease.



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**SECTION 6-56. QUARANTINE – REMOVAL OF ANIMALS.**

No animal subject to a rabies quarantine order or modified order will be removed from the quarantine area during the duration of the quarantine period without the written authorization from the Animal Control Officer.

**SECTION 6-57. QUARANTINE ORDER – ANIMALS AT LARGE.**

When a quarantine order has been issued and animals coming under such quarantine continue to run at large, uncontrolled by their owners or persons responsible for their control, any Animal Control Officer or law enforcement officer shall have the right, after reasonable effort has been made to apprehend and impound such animals running at large, to kill such animals and properly dispose of their bodies.

**SECTION 6-58. QUARANTINE ORDER – DOGS TRAINED TO ASSIST THE BLIND, DEAF, AND/OR HANDICAPPED**

Notwithstanding any other provisions of this article, a dog serving a blind, deaf, and/or handicapped master shall not be quarantined in the absence of evidence that it has been exposed to rabies, unless its master fails to:

1. Keep it safely confined to the premises of its master, or under proper restraint;
2. Keep it available for examination at all reasonable times.

**SECTION 6-59. QUARANTINE ORDER – REDEMPTION OF STRAYS RESTRICTED**

No animal which has been impounded by reason of its being a stray, unclaimed by its owner, will be allowed to be adopted during the period of rabies emergency quarantine, except by special authorization of the Animal Control Officer.

**SECTION 6-60. QUARANTINE – VACCINATION.**

During the area-wide quarantine period and as long thereafter as he/she decides it is necessary to prevent the spread of rabies, the Animal Control Officer may require that all animals three (3) months of age or older, will be vaccinated against rabies. All vaccinated animals will be restricted by leashing or confinement in enclosed premises for thirty (3) days after vaccination. During the quarantine period, the Animal Control Officer is empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination clinics located throughout the area of the health jurisdiction.

**SECTION 6-61. DESTRUCTION, REMOVAL OF RABID ANIMALS.**

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No person will kill or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove such animal from the Village limits without written permission from the Animal Control Officer. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Animal Control Officer.

### **SECTION 6-62. PENALTY, GRACE PERIOD, RESTITUTION, SAVINGS.**

Any person who violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction of violating the Chapter, shall be punished by a fine not exceeding \$500.00 and/or imprisonment for a period not to exceed 90 days. Each day this Chapter is violated shall be considered a separate offense.

Notwithstanding any of the foregoing, in the event any animal damages property, whether public or private, or causes injury to any person, and such damage or injury is found to have been an element of the violation of any of the provisions of this Chapter, the court may, in enforcing this Chapter, in its discretion, suspend any or all fines or incarceration which may have been assessed upon the condition that the defendant make restitution within a reasonable time to the victim of said damage or injury.

If any of the sections, subsections, sentences, clauses or phrases of this Chapter are for any reason held unconstitutional or invalid, the validity of the remaining portions of this Chapter shall not thereby be affected since it is the express intent of the Village of Melrose to pass each section, phrase, paragraph, and word separately.

**ARTICLE V.**  
**KEEPING OF LIVESTOCK**

**SECTION 6-63. DEFINITION.**

For the purposes of this article, the word “unit” will mean and is hereby designated as meaning one of the following classes or groups of livestock, but not more than one of the following classes or groups of livestock to each unit:

1. Two (2) cows & their offspring and twenty-five (25) chickens.
2. Two (2) horses & their offspring.
3. Seventy-five (75) chickens.
4. Five (5) turkeys.
5. Seven (7) geese.
6. Ten (10) ducks.
7. Four (4) goats.
8. Four (4) sheep.

**SECTION 6-64. COMMERCIAL FEED PENS PROHIBITED.**

It will be unlawful for any person to keep or maintain within the limits of the Village any commercial feed pen or pens for the feeding or fattening of any livestock, poultry, or fowl.

**SECTION 6-65. SWINE PROHIBITED.**

It will be unlawful for any person to keep and maintain, or cause to be kept or maintained, within the limits of the Village, any hog, pig, or swine.

**SECTION 6-66. PERMIT REQUIRED.**

Any person desiring to keep any livestock within the Village will first obtain a permit to do so from the Village.

**SECTION 6-67. EXCEPTION.**

Any person keeping and maintaining livestock on an area of five (5) acres or more are exempt from obtaining a permit. Notwithstanding, the sanitation conditions imposed under the provision of Section 6-70 will apply to those exempt from obtaining a permit.

**SECTION 6-68. UNIT PER LAND RATION PERMISSIBLE.**

Any person may keep and maintain within the limits of the Village one (1) unit of livestock; for each total of 15,000 square feet of land owned or controlled by such person so keeping such livestock, provided, however, that the pen or enclosure in which

## VILLAGE OF MELROSE – CODE OF ORDINANCES

livestock is kept will be at least sixty (60) feet, at its nearest point, from any business or dwelling house of any person other than the owner of the livestock and that such pen will be fenced in such manner that the animals will have access to all the space at all times and will not be enclosed in any portion thereof except for short periods of time.

An exception may be made wherein persons desiring to keep chickens, pigeons, or rabbits, and who do not have the amount of space as above mentioned, may do so provided the enclosure is located not less than sixty (60) feet from the nearest business or residence, the total number or a combination thereof will not exceed fifteen (15) on any one location, and that pens will be cleaned twice weekly.

### **SECTION 6-69. APPLICATION FOR PERMIT.**

Any person desiring a permit required by the provisions of this article will make application therefore at Melrose City Hall. Such application will show:

1. The area of land owned or controlled by the applicant.
2. The kind of livestock he/she proposes to keep on such land.
3. The location of the pen or enclosure in which such livestock is to be kept.
4. The distance from such pen or enclosure to the nearest dwelling house of any person other than the applicant.

The cost of the permit will be twenty dollars (\$20) per year.

### **SECTION 6-70. SANITARY MAINTENANCE.**

Any person keeping and maintaining livestock under the provisions of this article will keep and maintain the pens, enclosures, and premises clean and in a sanitary condition at all times. In addition, to any penalty for the violation of this section which may be imposed under the provisions of Section 1-10, any unsanitary condition may be corrected or abated under the provisions of this Code.

### **SECTION 6-71. SHORT TITLE.**

This article may be known and shall be cited as the “Dangerous Dog Ordinance”.

### **SECTION 6-72. FINDINGS AND INTENT.**

- A. Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.
- B. No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the Village of Melrose.
- C. This ordinance will protect the inhabitants of the Village of Melrose from the actions of dangerous or potentially dangerous dogs.
- D. This ordinance will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the Village of Melrose.

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- E. This ordinance will assist in providing control over dangerous or potentially dangerous dogs.

### **SECTION 6-73. DEFINITIONS.**

- A. “Animal Control Authority” means the department or division of the Village of Melrose that is charged with addressing animal control issues within the Village. The municipal law enforcement agency may carry out the duties of animal control authority under the Dangerous Dog Ordinance.
- B. “Dangerous dog” means a dog that caused a serious injury to a person or domestic Animal.
- C. “Owner” means a person who possesses, harbors, keeps, or has control or custody of a dog, or, if that person is under the age of eighteen, that person’s parent or guardian.
- D. “Potentially dangerous dog” means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:
  - 1. causing an injury to a person or domestic animal that is less severe than a serious injury
  - 2. chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or
  - 3. acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.
- E. “Proper enclosure” means secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure, that is designed to prevent the animal from escaping the confined area and young children from entering the confined area, but does not include chaining, restraining, or otherwise affixing the animal to a stationary object.
- F. “Serious injury” means a physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

### **SECTION 6-74. EXCEPTIONS.**

- A dog shall not be declared a dangerous or potentially dangerous dog if
- A. the dog was used by a law enforcement official for legitimate law enforcement purposes.
  - B. the threat, injury, or damage was sustained by a person or domestic animal that was:
    - 1. trespassing upon premises occupied by the owner of the dog;
    - 2. provoking, tormenting, abusing, or assaulting the dog, or had repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
    - 3. committing or attempting to commit a crime; or
  - C. the dog was:
    - responding to pain or injury; protecting itself or its offspring; or protecting or defending a human being or domestic animal from attack or assault.

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**SECTION 6-75. SEIZURE OF DOG – PETITION TO DISTRICT COURT.**

- A. If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to the district court in the county where the animal is located for a warrant to seize the animal.
- B. In an animal control authority has probable cause to believe that a dog is a Potentially dangerous dog and poses a threat to public safety, the animal control authority may petition the district court in the county where the animal is located for a warrant to seize the animal.
- C. After seizure, the animal control authority shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of Section 6 of the Dangerous Dog Ordinance.
- D. After seizure:
  - 1. the owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to Section 6 of the Dangerous Dog Ordinance; or
  - 2. the animal control authority may, within fourteen days after seizure of the dog, bring a petition in the district court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence that a dog is dangerous and poses an imminent threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within thirty days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the released of the dog to the owner.
- E. If the owner does not admit that the dog is dangerous or potentially dangerous, And the animal control authority does not bring a petition in court within fourteen days of seizure of the dog, the court shall immediately order the release of the dog to its owner.
- F. If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.
- G. A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control authority from making a subsequent application for seizure based on the dog's subsequent behavior.

**SECTION 6-76: DANGEROUS AND POTENTIALLY DANGEROUS DOGS – REGISTRATION REQUIRED.**

- A. Upon application, an animal control authority shall issue a Certification of Registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:

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1. the owner is able to keep the dog under control at all times;
  2. a license, if applicable, has been issued pursuant to the requirements of the Village of Melrose;
  3. the dog has a current rabies vaccination;
  4. the owner has a proper enclosure for the dog;
  5. the owner has paid an annual fee of \$100.00 to register a dangerous or potentially dangerous dog;
  6. the dog has been spayed or neutered;
  7. the dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
  8. the owner has entered the dog in a socialization and behavior program by the animal control authority.
- B. If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in Subsection D of Section 2 of the Dangerous Dog Ordinance for thirty-six consecutive months, the owner may request the animal control authority in the Village of Melrose to lift the requirements for registration pursuant to this Section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of Subsection A of this Section.
- C. An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of Subsection A of this Section, establishes that:
1. the owner has paid an annual fee of \$100.00, as established by the animal control authority to register a dangerous dog;
  2. the owner has written permission of the property owner or homeowners' association where the dangerous dog will be kept, if applicable;
  3. the dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination;
  4. when the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times;
  5. the dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
  6. a clearly visible warning sign with a conspicuous warning symbol indicating there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty feet, whichever is less.
- D. An animal control authority may order the immediate impoundment or humane Destruction of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement, or handling set forth in this Section.

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**SECTION 6-77. PROHIBITED ACTS.**

- A. It is unlawful for an owner of a dangerous or potentially dangerous dog to:
1. keep the dog without a valid certification of registration;
  2. violate the registration and handling requirements of the dog;
  3. fail to notify the animal control authority upon escape of the dog, or an attack by the dog upon a human being or domestic animal;
  4. fail to notify the animal control authority of the dog's death within five business days;
  5. fail to notify the animal control authority within twenty-four hours if the dog has been sold or given away, and provide the name, address, and telephone number of the new owner of the dog;
  6. fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case where there is reason to believe that the dog poses in imminent threat to the public safety; or
  7. fail to comply with special handling or care requirements for the dog that a court has ordered.
- B. Whoever violates a provision of Subsection A of this Section shall be charged in the Magistrate Court in the county in which the animal is located with a violation of the State Dangerous Dog Act, and upon conviction, shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and the State Dangerous Dog Act,



**CHAPTER 7**  
**BICYCLES**

**SECTION 7-1. TRAFFIC LAWS APPLICABLE.**

Every person operating a bicycle upon a roadway will be granted all the rights and will be subject to all of the duties applicable to the driver of a vehicle.

No person operating a bicycle upon any roadway or public parking area will violate any traffic law of the state, or of this Code, or ordinance of the Village pertaining to the driver of a vehicle, except as to special regulations in this ordinance, and except as to those provisions of law and ordinances which by their nature can have no application.

**SECTION 7-2. RIDING ON ROADWAYS AND BICYCLE PATHS.**

Every person operating a bicycle upon a roadway will ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Persons riding a bicycle upon a roadway will ride in a single file except on paths or walkways on which the use of bicycles is prohibited.

Whenever a useable path for bicycles has been provided adjacent to a roadway, bicycle riders will use such path and will not use the roadway.

**SECTION 7-3. CLINGING TO VEHICLES.**

Any person riding upon any bicycle, motorcycle, coaster, sled, skis, roller skates, or any toy vehicle, will not attach the same or him/herself to any moving vehicle upon a roadway.

**SECTION 7-4. RIDING ON WALKWAYS.**

No person will ride a bicycle upon a walkway within a business district.

No person will ride a bicycle upon any walkway or roadway when signs are posted prohibiting bicycles on such walkways or roadways.

When signs are posted requiring bicycles to use sidewalks or paths adjacent to a roadway, no person will ride a bicycle on the roadway adjacent to such sidewalks or paths.

Whenever a person is riding a bicycle upon a walkway, such person will yield the right-of-way to any pedestrian and will give audible signal before overtaking and passing such pedestrian.

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### SECTION 7-5. CARRYING ARTICLES.

No person operating a bicycle will carry any package, bundle, or other article which prevents the driver from keeping at least one hand upon the handlebars.

### SECTION 7-6. BRAKES.

Every bicycle will be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

### SECTION 7-7 through 7-10. RESERVED.

**CHAPTER 8**  
**CIVIL DEFENSE**  
**CIVIL EMERGENCIES**

**SECTION 8-1. DEFINITIONS.**

The following words and phrases will, for the purposes of this article, have the meanings respectfully ascribed to them:

**CHIEF EXECUTIVE OFFICER:** The Mayor, or in his/her absence or inability to act, the Mayor Pro tem of the Village of Melrose.

**EXPLOSIVE OR INCENDIARY DEVICE:** Dynamite and all other forms of high explosives; any explosive bomb, grenade, missile or similar device; and/or any incendiary bomb or grenade, fire bomb, or similar device, including any device which:

1. Consists of or includes a breakable container, including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound.
2. Can be carried or thrown by one individual acting alone.

**FIREARM:** Any weapon which is designed to or may readily be converted to expel any projective by the action of any explosive; or the frame or receiver of any such weapon.

**FIREMAN:** Any member of a fire department, including a volunteer fire department, of any state, or of any political subdivision of a state.

**LAW ENFORCEMENT OFFICER:** Any officer or employee of the United States, any state or political subdivision of a state, while engaged in the enforcement or prosecution of any of the criminal laws of the United States, a state, or any political subdivision of a state; and such term will specifically include, but will not be limited to, members of the National Guard and members of the Armed Forces of the United States, while engaged in suppressing acts of violence or restoring law and order during a civil emergency.

**SECTION 8-2. EXISTENCE OF EMERGENCY.**

The Village will be deemed in a state of civil emergency whenever any of the following conditions exist:

1. There is in existence anywhere within the Village a public disturbance involving:
  - a. An act or acts of violence by one or more person's part of an assemblage of three (3) or more persons, which act or acts will constitute a clear and present danger of, or will result in, damage or injury to the property of any other person or to the person of any other individual.

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- b. A threat or threats of the commission of an act or acts of violence having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in damage or injury to the property of any other person or to the person of any other individual.
2. There has been a natural disaster or man-made calamity, including, but not limited to flood, conflagration, cyclone, tornado, earthquake, or explosion occurring within or affecting property within the corporate limits of the Village which endangers life and property to such extent that extraordinary measures must be taken to protect the public health, safety and welfare.
3. When unlawful activities are taking place within the corporate limits of the Village, such as looting, arson, fire bombing, sniping, interference with emergency vehicles, criminal assaults upon persons, or widespread criminal damage to property, which in the opinion of the Chief of Police, cannot be controlled nor stopped under existing conditions and authority without further endangering life or property.

### **SECTION 8-3. PROCLAMATION.**

Whenever the Chief Executive Officer of the Village will, after consultation with the Chief of Police, finds that a civil emergency exists in the Village, and that the use of the extraordinary powers conferred by this chapter is necessary to protect or to restore the public peace and safety, he/she will forthwith proclaim in writing that there exists a civil emergency.

### **SECTION 8-4. RESTRICTION OF ACTIVITIES.**

In the event an emergency is proclaimed under the provisions of this chapter, the Chief Executive Officer may, by written proclamation, prohibit:

1. Any person being on the public streets, in the public parks, or at any other public place during the hours proclaimed by the Chief Executive Officer to be a period of curfew.
2. Any designated number of persons from assembling or gathering on the public streets, public parks, or other open areas, either public or private, or in any public building.
3. The transportation, possession, or use of combustible, flammable, or explosive material in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use, or legitimate commercial use.
4. The possession of firearms or any other deadly weapon by a person in any place other than his place of residence or business, except for law enforcement officers.
5. The sale, purchase, or dispensing of alcoholic beverages or other commodities or goods designated by the Chief Executive Officer.
6. The use of certain streets or highways by the public.

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7. Other activities the Chief Executive Officer reasonably believes should be prohibited to help maintain life, property, or the public peace.

### **SECTION 8-4. WHEN EFFECTIVE, NOTICE.**

Any proclamation issued by the Chief Executive Officer pursuant to the terms of this chapter will become effective immediately upon its signing by the Chief Executive Officer, but he/she will give public notice of its contents through the public press and other news media.

### **SECTION 8-5. APPLICATION OF PROCLAMATION.**

The restrictions contained in any proclamation issued under the provisions of this chapter may be imposed during times, upon conditions, with exceptions, and in areas of the Village, as designated by such proclamation.

### **SECTION 8-6. DETAINER OF PERSONS DURING EMERGENCY.**

When a civil emergency has been declared to exist by the Chief Executive Officer, any law enforcement officer observing any person who is in disobedience of any prohibition contained in the proclamation issued by the Chief Executive Officer is authorized to warn the person of the existence of the prohibition being violated and to order the person to cease the violation. Should the person fail to obey the order of the law enforcement officer, the law enforcement officer is authorized to take the person into custody and to remove him/her from the scene immediately, and to detain the person in custody for a period not in excess of eight (8) hours. Any person taken into custody by a law enforcement officer pursuant to the terms of this section will not be charged with the commission of a crime solely by virtue of his/her having been taken into custody, will not be interrogated by the law enforcement officer, will not be searched in any fashion other than a routine search for weapons, will not be prosecuted for any offense arising out of his/her detainer, and will not be mugged or fingerprinted by law enforcement authorities.

### **SECTION 8-7. LIMITATION OF PROCLAMATION.**

Any civil emergency proclaimed in accordance with the provisions of this chapter will terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance by the Chief Executive Officer of a written proclamation determining that a civil emergency no longer exists, whichever occurs first. The terms of the proclamation of emergency may be terminated by the Village Council prior to the termination of the forty-eight hour period of limitation contained in this section, or may be extended by the Village Council for such additional periods of time and with such alterations in the conditions set out in the emergency proclamation as may be deemed necessary by the Village Council.

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**SECTION 8-8. INTERFERING WITH OFFICERS.**

No person will commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his/her official duties incident to and during a civil emergency.

**SECTION 8-9. EXPLOSIVE OR INCIDENDIARY DEVICE PROHIBITED.**

No person will make, carry, possess, or use any type of explosive or incendiary device within the corporate limits of the Village.

**SECTION 8-10. OTHER POWERS UNAFFECTED.**

The provisions of this chapter will not be construed to repeal, replace, or limit any provision of this Code or ordinance of the Village, or to limit the authority and power vested in the Village Council, Mayor, or any law enforcement officer. It is the intention of the Village Council that this chapter supplement all legal powers otherwise conferred by law.

**CHAPTER 9**  
**COURT**

**SECTION 9-1. JURISDICTION.**

The Municipal Court will have exclusive jurisdiction over all offenses and complaints under the Municipal Code of the Village, and may issue subpoenas and warrants and punish for contempt.

**SECTION 9-2. ISSUANCE OF WARRANTS.**

In any action for the violation of any provision of this Code or ordinance of the Village in which an arrest has not be made, a warrant by the Municipal Judge for the arrest of defendant will issue in the first instance upon the affidavit of person making a complaint that he/she has reasonable grounds to believe the party charged has committed an offense. Any person arrested upon such warrant will, without unnecessary delay, be taken before the Municipal Judge to be tried for the alleged offense, or be allowed to post an appropriate bond.

**SECTION 9-3. ISSUANCE OF CITATION, SUMMONS.**

In all cases involving violations of any provision of this Code or ordinance of the Village not amounting to a breach of the peace, the first process will be a citation or summons requiring the party charged to appear before the Municipal Court at a time fixed in the citation or summons. Upon the failure of the party charged to appear, a warrant for his/her arrest will forthwith be issued by the Municipal Judge for the offense specified in the citation or summons, commanding that the party charged will be arrested and proceedings had as in the case when an arrest is made upon warrant issued upon affidavit.

**SECTION 9-4. LOCATION.**

The Municipal Court will be located in such quarters as will be provided by the Village Council.

**ARTICLE II. MUNICIPAL JUDGE**

**SECTION 9-5. PRESIDING OFFICER.**

The Municipal Court will be presided over by the Municipal Judge.

**SECTION 9-6. ELECTION.**

The Municipal Judge will be elected by the qualified electors of the Village of Melrose.

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**SECTION 9-7. QUALIFICATIONS.**

The Municipal Judge will be a qualified elector of the Village of Melrose, and will meet all other qualifications as set forth by the laws and regulations of the State of New Mexico.

**SECTION 9-8. VACANCY.**

Any vacancy occurring in the office of Municipal Judge will be filled by appointment by the Mayor with the advice and consent of the Village Council until the next regular election.

**SECTION 9-9. DOCKET, RECORDS.**

The Municipal Judge will keep a docket of all causes coming before him/her and the disposition thereof. He/she will keep such other records and reports as may be required by the Village Council and by law.

**SECTION 9-10. SALARY.**

The salary of the Municipal Judge is hereby fixed at \$400.00 per month, until changed by the Village Council.



**CHAPTER 10**  
**GARBAGE AND REFUSE**

**SECTION 10-1. CONTAINERS.**

Refuse containers used within the Village limits will be fly and rodent proof and water tight, and will be equipped with a tight fitting cover to prevent blowing or spilling, and will also be equipped with a wire mesh cover to be used when burning to prevent blowing and spreading of sparks and flammable particles. All refuse containers will be kept permanently in the alleyways, not on the streets of the Village.

**SECTION 10-2. BURNING.**

There will be allowed no burning of refuse at any time that the wind velocity or any other condition makes such activity hazardous. There will be allowed no burning of refuse at any time within thirty (30) feet of any structure or any overhanging tree or shrubbery.

**SECTION 10-3 through 10-10. RESERVED.**

**CHAPTER 11**  
**NUISANCES**

**SECTION 11-1. DEFINITION.**

For the purposes of this chapter, the word “nuisance” is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose, health, or safety of others;
2. Offends decency;
3. Is offensive to the senses;
4. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage on any public or private street, highway, sidewalk, stream, ditch or drainage;
5. In any way renders other persons insecure in life or the use of property; or
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

**SECTION 11-2. ILLUSTRATIVE ENUMERATION.**

The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of any of the following items, conditions, or actions are hereby declared to be and to constitute a nuisance; provided, however, this enumeration will not be deemed or construed to be conclusive, limiting, or restrictive:

1. Noxious weeds and other rank vegetation;
2. Accumulation of rubbish, trash, refuse, junk, and other abandoned materials, metal, lumber, or other things.
3. Any condition which provides harborage for rats, mice, snakes, and other vermin;
4. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof; or presents a more than ordinarily dangerous fire hazard in the vicinity it is located;
5. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
6. The carcasses of animals or fowl not disposed of within a reasonable time after death;
7. The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, or other substances;
8. Any building, structure, or other place or location where any activity which is in violation of local, state or federal law is conducted, performed, or maintained;
9. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground; and
10. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities.

**SECTION 11-3. UNREASONABLE NOISE.**

It is unlawful for any person to make, continue to cause to be made, any loud or unusual noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. Unlawful noises include, but are not 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 such means is unreasonably loud or harsh, 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 device where traffic is held up.
2. The use or operation of any radio, phonograph, loud speakers, amplifiers, or other sound-producing machine in such a manner as to disturb the peace and quiet of neighbors.
3. Yelling, shouting, or creating other loud noises which annoy or disturb the quiet, comfort, or repose of the persons in any office, dwelling, hotel, or residence, or of any persons in the vicinity.
4. The keeping of animals, which by causing frequent loud continuous noise, will disturb the quiet, comfort, or repose of persons in the vicinity.
5. It is unlawful to use or operate engine retarders, or so-called “jake brakes” within the Village limits.

**SECTION 11-4. PROHIBITED.**

It will be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance. Violation of this section will be subject to the criminal penalties set forth in Section 1-7 of this Code, which includes a fine of up to \$500.00.

**SECTION 11-5. RESPONSIBILITY OF PROPERTY OWNER.**

Each property owner within the Village, whether a natural person or a business entity, will be responsible under the provision of this chapter for each individual tract of property owned and his/her responsibility established herein will extend to the abutment of other adjoining property lines. When any portion of the property abuts on a public road or alley, the property owner’s responsibility will extend to the center of the road or alley; however, this will not restrict in any manner the maintenance of the full alley and street by the Village street department.

**SECTION 11-6. NOTICE TO ABATE.**

Whenever a nuisance is found to exist within the Village, the health officer, law enforcement officer, or any other duly designated officer of the Village will give written notice to the owner or occupant of the property upon which such nuisance exists, or upon the person causing or maintaining the nuisance.

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### **SECTION 11-7. CONTENTS OF NOTICE.**

The notice to abate a nuisance issued under the provisions of this chapter will contain:

1. An order to abate the nuisance or to request a hearing within a stated time, which will be reasonable under the circumstances.
2. The location of the nuisance, if the same is stationary.
3. A description of what constitutes a nuisance.
4. A statement of acts necessary to abate the nuisance.
5. A statement that if the nuisance is not abated as directed, and no request for a hearing is made within the prescribed time, the Village will abate such nuisance and assess the cost thereof against such person.

### **SECTION 11-8. SERVICE OF NOTICE.**

The notice to abate a nuisance will be served as any other legal process may be served pursuant to law.

### **SECTION 11-9. ABATEMENT BY VILLAGE.**

Upon failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, the health officer, law enforcement officer, or other duly designated officer of the Village will proceed to abate such nuisance and will prepare a statement of costs incurred in the abatement thereof.

### **SECTION 11-10. VILLAGE'S COST DECLARED A LIEN.**

Any and all costs incurred by the Village in the abatement of a nuisance under the provisions of this chapter will constitute a lien against the property upon which such nuisance existed, which lien will be filed, proven, and collected as provided for by law. Such lien will be notice to all persons from the time of its recording, and will bear interest at the legal rate thereafter until satisfied.

### **SECTION 11-11. ALTERNATIVE METHOD OF ABATEMENT.**

Except as herein provided, an action or the abatement of a public nuisance will be governed by the general rules of civil procedure.

A civil action to abate a public nuisance may be brought by verified complaint in the name of the Village without cost, by any public officer or private citizen, in the Municipal Court against any person who will create, perform, or maintain a public nuisance.

When judgment is against the defendant in an action to abate a public nuisance, he/she will be adjudged to pay all court costs and a reasonable fee for the complaint's attorney, when the suit is not prosecuted exclusively by the Village attorney.

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**ARTICLE II. OUTDOOR AUTOMOTIVE STORAGE**

**SECTION 11-12. DEFINITIONS.**

As used in this article, the following terms will have the following meanings:

**DISMANTLED OR PARTIALLY DISMANTLED VEHICLE.** Any motor vehicle from which some part or parts, which are ordinarily a component thereof, have been removed or are missing.

**INOPERABLE MOTOR VEHICLE.** Any motor vehicle which by reasons of dismantling, disrepair, or other cause, is incapable of being propelled under its own power.

**MOTOR VEHICLE.** Any wheeled vehicle which is self-propelled or intended to be self-propelled.

**SECTION 11-13. CONSTRUCTION.**

The provisions of this article will be construed as being supplementary to any sections of any codes relating to rubbish, litter, garbage, refuse, trash, or junk, and will not be construed to permit the parking or placing of dismantled, partially dismantled, or inoperable motor vehicles on any street, public way, or public property.

**SECTION 11-14. NUISANCE DECLARED.**

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 declared to be a public nuisance.

**SECTION 11-15. STORAGE RESTRICTED.**

It will be 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 zones where such activity is within the contemplated purposes of a duly licensed business under the provisions of the zoning code, unless such articles will be kept in a wholly enclosed garage or structure.

**SECTION 11-16. EXCEPTIONS.**

An owner or tenant may store, permit to be stored, or allow to remain upon his/her premises any dismantled, partially dismantled, or inoperable motor vehicle or parts thereof for a period not to exceed forty-eight (48) hours, if such motor vehicle is registered in his/her name; and provided further that any such owner or tenant may, in the

## VILLAGE OF MELROSE – CODE OF ORDINANCES

event of hardship, secure a permit from the Village to extend such period of forty-eight (48) hours for an additional period, not to exceed one (1) week.

### **SECTION 11-17. RESPONSIBILITY.**

The Village of Melrose is empowered to adopt and enforce ordinances for the regulation, control, and abatement of weeds and debris in the Village of Melrose. The protection of health, safety, and welfare of the citizens of the Village of Melrose requires that the Village enact provisions to bring all properties within the Village into compliance with regulations on weeds, debris, refuse, brush, and other objectionable, unsightly, or unsanitary matter. Keeping the Village of Melrose free of tall weeds, debris, refuse, brush, any other objectionable, unsightly, or unsanitary matter will improve the quality of life of Village residents by improving aesthetics of the Village, by eliminating the harbor for rodents, vermin, and snakes, by decreasing illegal dumping and littering, by eliminating fire hazards, and by deterring crime by increasing visibility and access. Keeping the Village of Melrose free of tall weeds, debris, refuse, brush, and other objectionable, unsightly, or unsanitary matter will promote the development of health and safety, as well as the beautification of the Village of Melrose.

### **SECTION 11-18. DEFINITIONS.**

The following words and phrases shall have the meanings respectively ascribed to them for the purposes of this Article.

**DEBRIS/REFUSE/BRUSH.** Debris is the scattered remains of something broken or destroyed, and ruins. It shall also include waste building materials, bricks, concrete blocks, and other matter. Refuse is all solid waste, including garbage, paper, cardboard, tin cans, wood, glass, and liquid petroleum waste such as motor oil, and other such similar items. Brush is yard clippings, leaves, branches, and other such matter.

**GARBAGE/UNSANITARY MATTER.** Garbage is decomposed animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

**WEEDS/GRASS.** Vegetation that because of its height is objectionable, unsightly, or unsanitary, but excluding shrubs, bushes, trees, cultivated flowers and cultivated crops.

### **SECTION 11-19. GENERAL REGULATIONS.**

**Nuisance:** It shall be unlawful for an owner or any person(s) having supervision or control of any lot, tract, parcel of land, occupied or unoccupied, improved or unimproved, with the corporate limits of the Village to suffer or permit a nuisance upon the premises or otherwise in, along, or across the adjacent sidewalk, street or alley to exist.

**Weeds, Grass:** It shall be unlawful for any owner or any person(s) having supervision or control of any lot, tract, parcel of land, occupied or unoccupied, improved or unimproved,

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within the corporate limits of the Village to suffer or permit grass, weeds, or any plant that is not cultivated to grow to a height greater than twelve (12) inches on the individual tract, or parcel or to grow in profusion upon the premises or otherwise in, along, upon, or across the adjacent sidewalk, street, or alley to a height greater than twelve (12) inches.

**Debris, Refuse, Brush:** It shall be unlawful for an owner or any person(s) having supervision or control of any lot, parcel of land, occupied or unoccupied, improved or unimproved, within the corporate limits of the Village, to suffer or permit any debris, refuse, brush, or any objectionable, unsightly, or unsanitary matter of whatever nature to accumulate or be present upon any lot, tract, parcel, or across the adjacent sidewalk, street, or alley.

**Illegal Dumping:** It shall be unlawful for any person to discard, dump, or unload items such as furniture, appliances, mattresses, carpet or carpet padding, debris, refuse, brush, trees and limbs, or any other material which constitutes a nuisance at any place within the corporate limits of the Village of Melrose, except at a state-permitted Village designated and approved dumping site or at such other place as may be designated by the Village.

### **SECTION 11-20. DUTY TO ABATE.**

Every person possessing any place in or on which there is a violation of the general regulations of this Article shall, as soon as its presence comes to his/her knowledge, proceed at once and continue to abate such violations.

In the event that any owner or person(s) having supervision or control of the property violates the provisions of this Article, the Village or any authorized designee, shall give notice to the aforementioned person(s) setting forth the non-compliance and ordering the person(s) to abate or remove the violation described in such notice, within such time as may be specified in the order.

The Village, in the notice of violation, shall inform the aforementioned person(s) by personal delivery or by certified mail, return receipt requested, of the kind or nature of the violation, the time within which the violation shall be corrected, and that in the event the condition is not corrected, that the Village shall cause the condition to be abated.

Persons possessing any acreages considered to be pasture or grassland within the Melrose village limits may be exempt from the provisions of this Section by submitting a written exemption form, provided by the Village of Melrose, with the reasons therein for their request for exemption. The form will be brought before the Melrose Village Council for approval. In the case of exemption, the property must be fenced with its main purpose to be for grazing, ranching, or farming, and shall be exempt from mowing only. All other provisions of this Article shall apply to such property owner or occupant, and further, the property owner or occupant shall be diligent in protecting the property and surrounding property from fire. The Village of Melrose shall be held harmless in the event of fire where the exempt property or owner or occupant is found to be at fault.

**SECTION 11-21. ABATEMENT BY THE VILLAGE.**

If such owner or any person(s) having supervision or control of the property in question fails or refuses to comply with the demand for compliance in the notice within the time specified in the notice, the Village may do such work to be done to bring the real property into compliance with this Article. The cost, charges, and expenses incurred in doing or having such work done or improvements made to the real property shall be a charge to and a personal liability of such person(s). In addition to collecting the costs and expenses incurred by correcting the violations, upon abatement by the Village, the Village shall charge the sum of one hundred dollars (\$100.00) per occurrence which sum is found to be the cost of the Village of administering the terms of this Chapter.

A statement of the costs and fees incurred by the Village shall be mailed to the owner or person(s) having supervision or control of the premises. A lien pursuant to Section 11-22 of this Code of Ordinances may be immediately filed.

**SECTION 11-22. PENALTIES AND LIENS.**

If a notice is provided to the owner or any person(s) having supervision or control of such real property, the failure or refusal to comply with the demand for compliance within the applicable time period shall be deemed to be maintaining a public nuisance, and the Village or its authorized designee may issue a citation in Municipal Court and/or file a lien upon and against such real property to include all costs, filing fees, charges and expenses, in addition to a charge to and personal liability to the owner.

Notwithstanding any provision of this Section to the contrary, the Village or its authorized designee, has the authority to issue immediate citations to person(s) violating any provision of this Article. Any person(s) violating any of the provisions of this Article shall be punished as provided in Section 1-10 of this Code of Ordinances.

To obtain a lien against the property, the Village must file a claim of lien as provided by Section 3-36-1 et. seg. NMSA 1978. Such lien, when filed and recorded as required by this Article, shall constitute a first and paramount lien against such tract of real property, subject only to the priority of the general property tax.

The remedies set forth in this section shall be considered cumulative, and the exercise of one such remedy shall not preclude the Village from pursuing any other remedy.



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**CHAPTER 12**  
**OFFENSES**

**ARTICLE I. IN GENERAL**

**SECTION 12-1. CRIMINAL CODE ADOPTED.**

Except for the penalty provisions, Chapter 30, NMSA 1978, now in force or as said chapters may from time to time be amended by the Legislature of the State of New Mexico, are hereby adopted by reference as the Criminal Code of the Village of Melrose.

**SECTION 12-2. CRIMINAL CODE – PENALTIES.**

Any person who violates any of the provisions of the Criminal Code hereby adopted by reference, upon conviction thereof, will be punished as provided in Section 1-10 of this Code.

**SECTION 12-3. CRIMINAL CODE – COPY FILED.**

A copy of the Criminal Code will at all reasonable times be available and subject to inspection at the office of the Village Marshal in the Village Hall.

**SECTION 12-4. RESISTING OR OBSTRUCTING AN OFFICER.**

Resisting or obstructing an officer or Village official consists of:

1. Knowingly obstructing, resisting, or opposing any officer of this state or any other duly authorized person serving or attempting to serve or execute any process or any rule or order of any of the courts of this state or any other judicial writ or process.
2. Resisting or abusing any judge, justice of the peace, or peace officer in the lawful discharge of his/her duties.

Whomever commits resisting or obstructing an officer or Village official is guilty of a misdemeanor.

**ARTICLE II. CURFEW OF MINORS**

**SECTION 12-5. DEFINITIONS.**

The following words and phrases will, for the purposes of this article, have the meanings respectively ascribed to them:

**EMERGENCY:** An unforeseen combination of circumstances or the resulting state that calls for immediate action. This term includes, but is not limited to fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

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**ESTABLISHMENT.** Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

**JUVENILE OR MINOR.** Anyone who has not reached his/her eighteenth birthday.

**OPERATOR.** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment, including the members or partners of an association or partnership and the officers of a corporation.

**PARENT.** Any person having legal custody of a juvenile as a natural or adoptive parent; as a legal guardian; as a person who stands in loco parentis; or as a person to whom legal guardianship or custody has been granted by the courts.

**PUBLIC PLACE.** Any place to which the public or a substantial group of the public has access, and includes, but is not limited to, streets, common areas of schools, parking lots, parks, playgrounds, restaurants, shops, cafes, and similar areas that are open to the public.

**REMAIN.** To stay behind, to tarry, and to stay unnecessarily in a public place.

**TIME OF NIGHT.** Referred to herein is based upon the prevailing standard of time, generally observed at that hour by the public in the Village, prima facie the time then observed in the Village Marshal's office.

**YEARS OF AGE.** Anyone under the age of eighteen (18).

### **SECTION 12-6. PARENTAL RESPONSIBILITY.**

It is unlawful for a parent, legal guardian or another to knowingly permit a juvenile in his/her custody or control to be present at or upon public streets, highways, alleys, parks, playgrounds, or any other public places or buildings, places of amusement and entertainment, or vacant or improved lots or parcels of real estate within the corporate limits of the Village of Melrose during the periods specified below:

1. Between the hours of twelve o'clock (12:00 ) midnight Friday and Saturday, and six o'clock (6:00) a.m. the following day; or
2. Between the hours of eleven o'clock (11:00) p.m. Sunday through Thursday, inclusive, and six o'clock (6:00) a.m. the following day.
3. A juvenile who is in a moving vehicle after the hours set forth in paragraphs 1 and 2 will not be stopped unless a police officer has a reason to believe the juvenile is out after such hours as defined in this Section, a juvenile has been seen in the same area more than twice and appears not be in route to a destination.

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### **SECTION 12-7. EXCEPTIONS.**

The following will constitute valid exceptions to the operation of this article:

1. When a juvenile is accompanied by his/her parent or legal guardian, or a person eighteen (18) years old or older who is authorized by the juvenile's parent or legal guardian
2. When a juvenile is participating in, going to, or returning from:
  - a. Gainful employment;
  - b. A school-sanctioned activity;
  - c. A religious event;
  - d. An errand or some other function at the direction of the juvenile's parent or legal guardian without any detour or unauthorized stop;
  - e. An emergency involving the protection of a person or property from an imminent threat of serious bodily harm or substantial damage;
  - f. An activity involving the exercise by the juvenile of his/her rights protected under the First Amendment to the United States Constitution;
  - g. An activity conducted by a non-profit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults directly responsible for the activity;
  - h. Interstate travel to or from locations outside the corporate limits of the Village of Melrose.
3. When a juvenile is participating in a specific event or activity that has been granted exception by the Melrose Village Council.
4. When a juvenile is on property owned, leased, or otherwise controlled by his/her parent or legal guardian, or legal custodian.
5. When a juvenile is on property owned, leased, or otherwise controlled by persons other than the parent or legal guardian, with permission of his/her parent or legal guardian and the property owner, but not including public places or places of amusement or entertainment.

### **SECTION 12-8. ENFORCEMENT.**

1. Report of Violation: Any duly authorized law enforcement officer of the Village finding a juvenile upon any public assembly, building, place, street or highway during the hours set forth in Section 12-6 shall ascertain the name, phone number and address of the parent and/or legal guardian of the juvenile, and shall promptly report the violation to his/her superior officer, together with the name and address of the juvenile and parent(s) or guardian(s) of said juvenile.
2. Written Notice: Said superior officer shall cause a written notice to be served by personal service or certified mail, upon the parent, guardian, or person in charge of such juvenile, setting forth the manner in which this Section has been violated.

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**SECTION 12-9. PENALTY.**

Any parent, guardian or person in charge of a juvenile allowing that juvenile to be present in any public street, building, or place during the hours set forth in Section 12-5 who, within a period of one year from the date of the violation, shall knowingly permit such juvenile again to violate the provisions of this Section, after receipt of the first violation notice served pursuant to Section 12-6 shall be subject to the fines provided for in Section 1-7 of this Code of Ordinances. After the third offense, child protective services may be notified by the law enforcement officer.

**SECTION 12-10. MAXIMUM PENALTY.**

Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation of any municipal ordinance shall be five hundred dollars (\$500.00).

**SECTION 12-11. RESERVED.**

**CHAPTER 13**  
**PEDDLERS**

**ARTICLE I. IN GENERAL**

**SECTION 13-1. DEFINITION.**

The word “peddler” as used in this chapter will mean any individual, whether a resident of this Village or not, traveling by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of, as well as the selling, offering for sale, or taking or attempting to take orders for the sale of goods, wares, merchandise, personal property or any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or not; provided, that such definition will include any person who, for him/herself, or for another person, hires, leases, uses or occupies any building, structure, tent, railroad box, car, boat, hotel room, lodging house, apartment, shop, or any other place within the Village for the sole purpose of exhibiting samples and taking orders for future delivery. The word “peddler” will include the terms “canvasser”, “solicitor”, “transient or itinerant merchant or vendor” or “transient or itinerant photographer”.

**SECTION 13-2. ENTRANCE TO PREMISES RESTRICTED.**

It will be unlawful for any peddler to enter upon any private premises when such premises are posted with a sign stating, “No Peddlers Allowed”, or “No Solicitations Allowed”, or other words to such effect.

**SECTION 13-3. REFUSING TO LEAVE.**

Any peddler who enters upon premises owned, leased, or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, will be deemed to be guilty of a misdemeanor.

**SECTION 13-4. MISREPRESENTATION.**

It will be unlawful for any peddler to make false or fraudulent statements concerning the quality of his/her goods, wares, merchandise, or services for the purpose of inducing another to purchase the same.

**SECTION 13-5. HOURS OF OPERATION.**

It will be unlawful for any peddler to engage in the business of peddling within the Village limits between the hours of one-half (1/2) hours before sunset and 9:00 a.m. the

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following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

### **ARTICLE II.** **PERMIT**

#### **SECTION 13-6. PERMIT.**

With certain exceptions, it will be unlawful for any person to engage in business as a peddler within the Village limits without first obtaining a permit to do so.

#### **SECTION 13-7. EXCEPTIONS.**

The provisions of Section 13-6 of this article will not apply to local schools, Chamber of Commerce, civic clubs, churches, school organizations, Fire Department, etc. Further, vendors at Old Timer Days or other community, school, or other non-profit organizations are also exempt from obtaining a permit; also exempt is anyone or business with a current, valid Melrose Business Registration.

#### **SECTION 13-8. APPLICATION.**

Applicants for a permit under this article will file with the Municipal Clerk a sworn application in writing, in duplicate, on a form to be furnished by the Municipal Clerk, which will give the following information:

1. The name and description of the applicant.
2. The permanent home address and full local address of the applicant.
3. A brief description of the nature of the business and the goods to be sold.
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
5. The length of time for which the right to do business is desired.
6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery.
7. A photograph of the applicant, taken within sixty (60) days immediately prior to the date of filing of the application. The photograph will be two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
8. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed thereof.
9. Whether the applicant, upon any sale or order, will demand, accept, or receive payment or deposit of money in advance of final delivery.
10. A list of the last five (5) municipalities wherein the applicant has worked before coming to this Village.

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11. Such other relevant information as may be required by the investigation of the applicant.

**SECTION 13-9. FALSE INFORMATION.**

It will be unlawful for any person to give any false or misleading information in connection with his/her application for a permit required by this Article.

**SECTION 13-10. DRIVER’S LICENSE.**

At the time of filing his/her application for a permit required by this Article, the applicant will present his/her current, valid driver’s license to the Municipal Clerk.

**SECTION 13-11. PERMIT FEE REQUIRED.**

At the time of filing the application, a fee of one hundred twenty-five dollars (\$125.00) will be paid to the Municipal Clerk, the cost of the permit.

**SECTION 13-12. BOND.**

Every applicant, not a resident of the Village, or who is a resident of the Village and represents a firm whose principal place of business is located outside the state, will file with the Municipal Clerk a surety bond to the Village in the amount of one thousand dollars (\$1,000.00), with the surety acceptable to and approved by the Mayor, conditioned that the applicant will comply fully with all the applicable provisions of this Code, the ordinances of the Village and state laws regulating and concerning the business of peddling, and guaranteeing to any citizen of the Village that all money paid as a down payment will be accounted for and applied according to the representations of the peddler, and further guaranteeing to any citizen of the Village doing business with such peddler that the property purchased will be delivered according to the representations of such peddler. Action on such bond may be brought in the name of the Village to the use or benefit of the aggrieved person.

If the applicant is an agent, employee, canvasser, or solicitor of a corporation authorized to do business in this state, or is registered under the Fictitious Name Act of the state, such corporation or fictitious name business may furnish one (1) bond in the amount of one thousand (\$1,000.00) for any and all of its agents, employees, canvassers, or solicitors.

**SECTION 13-13. SERVICE OF PROCESS.**

Before any permit will be issued under this Article, there will also be filed with the Municipal Clerk an instrument in writing, signed by the applicant under oath, nominating and appointing the Municipal Clerk his/her true and lawful agent, with full power and authority to acknowledge service of notice of process for and on the behalf of such

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applicant, and service of summons in any action brought upon the applicant's bond will be deemed made when served on the Municipal Clerk.

### **SECTION 13-14. DENIAL.**

If, as a result of investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Village Marshal will endorse on the application his/her disapproval and his/her reasons for the same, and will return the application to the Municipal Clerk, who will notify the applicant that his/her application is disapproved, and that no permit will be issued.

### **SECTION 13-15. ISSUANCE.**

If, as a result of investigation, the character and business responsibility of the applicant are found to be satisfactory, the Village Police Department will endorse his/her approval on the application, execute a permit addressed to the applicant for the carrying on of the business applied for, and will return the permit along with the application to the Municipal Clerk, who will, upon payment of the required fee, deliver the permit to the applicant.

### **SECTION 13-16. CONTENTS.**

Each permit issued under this Article will contain the signature and seal of the issuing officer and will show the name, address, and photograph of the permittee, the class of the permit issued, and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance, and the length of time the same will be operative, as well as the permit number and other identifying description of any vehicle used in such business.

### **SECTION 13-17. RECORD.**

The Municipal Clerk will keep a permanent record of all permits issued under this Article, and of any complaints or violations concerning permittees hereunder.

### **SECTION 13-18. DISPLAY.**

Every peddler having a permit issued under the provisions of this Article and doing business within the Village will display his/her permit upon the request of any person. Failure to do so will be deemed a misdemeanor.

### **SECTION 13-19. DURATION.**

Every permit issued under the provisions of this Article will be valid for the period of time stated therein, but in no event will any such permit be issued for a period of time in excess of ninety (90) days.



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### **SECTION 13-20. REPORTS OF COMPLAINTS.**

The Village of Melrose will report to the Municipal Clerk any complaints against any person having a permit under the provisions of this Article, and any conviction for violation of this Chapter.

### **SECTION 13-21. REVOCATION.**

Any permit issued under the provisions of this Article may be revoked by the Village Council for the violation by the permittee of any applicable provision of this Code, state law, or Village ordinance, rule, or regulation.

### **SECTION 13-22. RESERVED.**

**CHAPTER 14**  
**STREETS AND SIDEWALKS**

**ARTICLE I. IN GENERAL**

**SECTION 14-1. OBSTRUCTIONS GENERALLY.**

It will be unlawful for any person to erect, construct, maintain, place, or leave any structure, fence, post, or other object upon any public way.

**SECTION 14-2. OBSTRUCTIONS BY TREES, ETC.**

All trees, shrubs, etc. will be trimmed to a minimum height of eight (8) feet about any sidewalk, street, intersection, etc. The clear-sight triangle will remain free of any obstacle between three (3) and eight (8) feet about street level.

**ARTICLE II. CURBING, GUTTERING, PAVING, IMPROVEMENTS**

**SECTION 14-3. PERMIT REQUIRED.**

Every person desiring to lay any curbing, guttering or paving, or to cut any curb within the corporate limits of the Village upon any public street, will, prior thereto, first obtain a permit from the Village Council to lay such curbing, guttering or paving.

**SECTION 14-4. PERMIT FEE.**

The Village will collect, prior to the issuance of any permit required by the provisions of this Article, a fee equivalent to the cost to the Village of the engineering services that may be required to insure that such paving, curbing, or guttering is laid according to grade and in accordance with the drainage plan of the Village in effect at the time of the issuance of such permit.

**SECTION 14-5. SUPERVISION OF WORK.**

The Village will, at the time of the issuance of a permit required by the provisions of this Article, designate a duly licensed engineer or qualified Village employee to supervise the work covered by such permit.

**SECTION 14-6. PENALTY.**

Any person who will lay any curbing, guttering, or paving without first obtaining the permit hereinabove mentioned, or who will, after obtaining such permit, fail to lay the same in accordance with the specifications and the requirements of the engineer or qualified Village employee designated by the Village, will be guilty of a misdemeanor,

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and will, for each lot or parcel or plot, be punishable as provided in Section 1-10 of this Code.

### **ARTICLE III. EXCAVATIONS AND TRENCHING**

#### **SECTION 14-7. PERMIT REQUIRED.**

It will be unlawful for any person to make any excavation or trench in, on, or along any Village property or easement unless such person will first secure a permit from the Village to make and perform such work. This Section will apply for any purpose including the purpose of making connection with water, sewer, or any other utility.

#### **SECTION 14-8. APPLICATION FOR PERMIT.**

Before any excavation or trenching work will be done on Village property or easement, the person desiring to make and perform such work will first apply at City Hall for a permit to do such work. Such application will include, but is not limited to, the place or places where the work is to be done, the name of the person performing the work, and the name of the person for whom the work is being done.

#### **SECTION 14-9. REGULATIONS.**

The person making any excavation or trench in, on or along any Village property or easement must be licensed by the State of New Mexico in digging and trenching, have a current New Mexico Taxation and Revenue Department identification number, and a current Business Registration from the Village of Melrose; or, he/she must be employed by a public utility. Before any excavation or trenching is started, all utilities must be spotted, and the person performing the work must know and comply with OSHA rules and regulations.

#### **SECTION 14-10. RESPONSIBILITY.**

The person performing the excavation or trenching work will be responsible for any and all damage(s) to Village property, and will be billed should any damages occur; or the person will replace the damaged or destroyed property with equal or better materials.

#### **SECTION 14-11. INSPECTION.**

All excavation or trenching work will be inspected by the Melrose Public Works Director at the following intervals:

1. At the start. The person performing the work will show where the exact location of excavation and/or digging will occur.
2. When the pipe has been exposed.

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3. After tapping has been done. On sewer mains, before the saddle has been set, then after the saddle has been set and sealed.
4. At backfill and compact.
5. When the ground has been returned to original level.

### **SECTION 14-12. PENALTY.**

Any person who performs any excavations and/or trenching on Village property without first obtaining the permit hereinabove mentioned, or who will, after obtaining such permit, fails to do so in accordance with the requirements set forth above, will be guilty of a misdemeanor and will be punishable as provided in Section 1-10 of this Code. All excavations and/or trenching will cease until all guidelines have been met.

**ARTICLE IV  
NUMBERING OF LOTS, HOUSES, BUILDINGS AND  
PLACES OF BUSINESS**

**SECTION 14-13. REQUIRED.**

All houses, buildings, and places of business within the Village shall be numbered in accordance with the provisions set forth in this chapter, and it is made the duty of the owner or agent for the owner of each house, building, or place of business in the Village to number or cause to be numbered any and all such houses, buildings, or places of business belonging to him/her or under his/her supervision, and the owner of all houses, buildings, and places of business which may hereafter be constructed within the Village shall number or cause to be numbered such house or houses, building or buildings, or place or places of business within ten (10) days from and after the completion thereof. The houses, buildings, and places of business abovementioned shall be taken to mean any and all houses, buildings, and places of business which face or shall at any time hereafter face on any of the streets or avenues within the Village, as such corporate limits now exist or may hereafter be changed, modified, or enlarged.

**SECTION 14-14. AUTHORITY.**

Municipalities may regulate the numbering of lots, houses, buildings, and places of business within the corporate limits of the municipality pursuant to 3-49-1, NMSA.

**SECTION 14-15. CONFORMANCE TO RULES REQUIRED.**

The numbering of houses, buildings, and places of business provided for in Section 14-13 shall be in conformity with the following rules:

- A. Main Street shall be the base from which the numbering of all houses, buildings, and places of business facing on the streets and avenues running east and west shall begin.
- B. Denby Street, also known as U.S. Highway 60-84, shall be the base from which the numbering of all houses, buildings, and places of business facing on the streets and avenues running north and south shall begin.
- C. Every lot or portion thereof amounting to twenty-five (25) feet of frontage on any of the streets or avenues shall be entitled to one whole number, which shall in all cases be counted in determining the appropriate number or numbers of any house or houses, building or buildings, or place or places of business in the same block, whether the place shall have any house, building, or place of business occupying the same or not; provided, that where two or more houses, buildings, or places of business occupy the same twenty-five (25) feet of frontage space, the number applicable to such space shall appear upon each house, building, or place of business, and to designate the same, the letters of the alphabet shall be used

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following the last numeral of the number, beginning with the letter “A” and going down the alphabet in regular succession until all such houses, buildings, or places of business shall be properly designated; and provided further, that all doorways or archways leading to stairways or elevators shall be numbered by adding a common fractional number to the whole number next toward the base therefrom.

### **SECTION 14-16. BLOCKS – NORTH AND SOUTH NUMBERING SYSTEM.**

On Main Street and all streets and avenues running parallel therewith, the numbering, whether going north or south, shall begin at Denby Street with “100” on the west side of such street or avenue; and with “101” on the east side thereof, and at the next street parallel with Denby Street, the numbering shall begin with “200” on the west side, and “201” on the east side of such street or avenue, and so forth, increasing one hundred with each street or avenue parallel to Denby Street, and with the even numbers and fractions thereof on the west side, and the odd numbers and fractions thereof on the east side until all are properly numbered.

### **SECTION 14-17. BLOCKS – EAST AND WEST NUMBERING SYSTEM.**

On Denby Street and all streets and avenue running parallel therewith, the numbering, whether going east or west, shall begin at Main Street with “100” on the north side of such streets or avenues, and with “101” on the south side thereof, and at the next street or avenue parallel with Main Street, the numbering shall begin with “200” on the north side, and with “201” on the south side of such streets running east and west, and so on, increasing the number by one hundred at each such street or avenue parallel with Main Street, with the even numbers and fractions thereof on the south side of such streets and avenues parallel with First Street, until all are numbered.

### **SECTION 14-18. BLOCKS – CONSECUTIVELY NUMBERED IN HUNDREDS.**

In going east and west from Main Street and north and south from First Street, the numbering in each block shall commence with the next consecutive even hundred above the block just preceding it.

### **SECTION 14-19. BUILDINGS FRONTING ON ALLEYS.**

The numbers on buildings fronting on alleys shall be the same as of the house, building, or place of business on the same lot or fraction thereof, excepting that the fraction one-half ( $1/2$ ) shall be added thereto.

### **SECTION 14-20. PLACEMENT AND SIZE OF NUMBERS AND LETTERS.**

All numbers shall be placed in a conspicuous place, next to the street or avenue on which the house, building, or place of business to be numbered shall have its main entrance (and in the case of houses, buildings or places of business facing upon alleys, the numbers

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shall be placed on the main entrance facing such alley), and the figure or figures of any such number (or letter) shall not be less than three inches in height; provided, that if the lot or piece of ground occupied by a single dwelling house is of sufficient width to require more than one number or shall be so situated as to be partially within two twenty-five foot number districts, it shall be sufficient to place on such dwelling house the number of the lot or twenty-five-foot fraction on which the main front entrance is situated.

### **SECTION 14-21. NUMBERING MAP FOR PUBLIC INSPECTION.**

For the convenience of the public and for the further purpose of furnishing a ready means of ascertaining the appropriate number of any house, building, or place of business required by this section to be numbered, the Village shall prepare a plat, map, or diagram of the Village, showing the proper number for every lot, half lot or twenty-five feet aforesaid, which map shall be hung in the office of the Municipal Clerk for public inspection.

### **SECTION 14-22. INJURING OR DISPLACING STREET SIGNS OR NUMBERS IS A MISDEMEANOR.**

Any person who purposely takes down, defaces, mutilates, or in any other manner mars or injures any street sign or indicator or any sign or number put up under the provisions of this section, shall be deemed guilty of a misdemeanor.

**CHAPTER 15**  
**UTILITIES**

**ARTICLE I. IN GENERAL**

**SECTION 15-1. DEFINITION.**

For the purpose of this Chapter, the word “utility” will be construed to mean and include water, sewer, garbage collection, and/or any other utility service furnished by the Village to consumers thereof.

**SECTION 15-2. SCOPE OF PROVISIONS.**

All pertinent provisions of this Chapter are hereby made a part of the terms and conditions whereby the Village may furnish any utility service to any person, or whereby the Village will make any utility connections, or perform any work of any kind in connection with the furnishing of any utility service pursuant to the rules and regulations of the Village Council.

**SECTION 15-3. SERVICE TO COMPLY WITH TECHNICAL PROVISIONS.**

Any utility service furnished under the provisions of this Chapter will be in accordance with and in compliance with all applicable technical provisions of this Code, state law, and Village ordinances, rules, and regulations.

**SECTION 15-4. RULES, REGULATIONS.**

The Village Council will have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction, and maintenance of any utility service system owned and operated by the Village within or without the Village, and under the management of the Village Council. Such rules, regulations, standards, and specifications will be filed in the office of the Municipal Clerk. Violation of such rules, regulations, standards, and specifications will be deemed a misdemeanor.

**SECTION 15-5. RIGHT OF ENTRY.**

Any authorized inspector of the Village will have free access at any time to all premises supplied with any utility service by the Village for the purpose of examination in order to protect the utility services from abusive use.

**SECTION 15-6. TERMINATION OF SERVICE AUTHORIZED.**

The Village will have the right to disconnect or refuse to connect or reconnect any utility service for any of the following reasons:



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1. Failure to meet the applicable provisions of the law.
2. Violation of the rules and regulations pertaining to utility service.
3. Nonpayment of bills.
4. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances, or otherwise.
5. Molesting any meter, seal, or other equipment controlling or regulating the supply of utility service.
6. Theft or diversion, and/or use of service without payment thereof.
7. Vacancy of premises.

### **SECTION 15-7. LIABILITY OF DAMAGE.**

The Village will not be liable for any damage to any customer of any utility service furnished by the Village due to backflow of sewerage system, failure of supply, interruption of service, or any other cause outside the direct control of the Village.

### **SECTION 15-8. UTILITY SERVICE – APPLICATION REQUIRED.**

Any person desiring any utility service furnished by the Village will make application for the same to the Municipal Clerk. Such application will contain the applicant's name, address, and the uses for which such utility service will be provided to an applicant therefore. Such application will be signed by the applicant and will be filed with the utility department, along with the required deposit.

An agreement will be included in the application for utility service, and will be executed by the applicant, to wit:

“In consideration of service to be given, the consumer agrees that the Village will not be responsible for damages or injury caused by water on the consumer's side of the meter; nor for injury or damage caused by water escaping from the Village's lines until after the Village will be notified of the leaking water by the consumer and be given a reasonable time to repair the leak.”

### **SECTION 15-9. UTILITY SERVICE – NOT AVAILABLE TO DEBTORS.**

The Village may decline or fail or cease to furnish utility service to any person who may be in debt to the Village for any reason, except ad valorem taxes and special assessments.

### **SECTION 15-10. UTILITY SERVICE – PERMIT.**

Approval of the application for any utility service by the Village Council will be deemed permission for such service.

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**SECTION 15-11. UTILITY SERVICE – USE ASSUMED.**

All premises connected to any utility service of the Village will be assumed to be using such utility service, and the owner or occupant will be charged therefore as long as such premises will remain connected with the utility service.

**SECTION 15-12. NOT TO USE CONTRARY TO PERMIT.**

Any person having a permit from the Village for the use of any utility service offered by the Village who will use such utility service for any purpose other than mentioned in such permit or who will make any unauthorized changes in such services will be deemed guilty of a misdemeanor.

**SECTION 15-13. DAMAGE, TRESPASS OF EQUIPMENT.**

It will be unlawful for any person, not having authority to do so, to open any water hydrant or to tamper with any utility service furnished by the Village to consumers, or to in any other way molest, damage, or trespass upon any equipment or premises belonging to the Village connected with any utility service.

**SECTION 15-14. TEMPORARY INTERRUPTION OF SERVICE.**

The Village reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.

**SECTION 15-15. RESTRICTING USE.**

The Village hereby reserves the right to, at any time, restrict or prevent the use of any utility service furnished by the Village during periods of emergency or circumstances demanding such restriction or prevention of use.

**SECTION 15-16. SALE OF SERVICE BY CUSTOMER.**

It will be unlawful for any person to resell to others any utility service obtained from the Village except only by special arrangement with the Village Council.

**SECTION 15-17. CONNECTIONS TO SERVICE AND SERVICE CHARGES.**

Connections for any utility service furnished by the Village will be made only under the supervision of the Village Council.

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Users of water services for a period of less than seventy-two (72) hours will not be required to place a deposit with the Village, but must remit a service fee before service will be provided. Any usage above one thousand (1000) gallons of water during the seventy-two-hour period will require remittance of the minimum water charge as well as standard charges for water used above the minimum consumption.

### **SECTION 15-18. SEPARATE CONNECTIONS.**

Every separate structure receiving water from the Village's water system will be provided with a separate meter and connection to the Village's water facilities. Multiple connections (i.e., more than one structure or living or business unit on a single meter) are permitted only for multi-unit structures, trailer parks operated under a single ownership, and as provided by special contracts or resolutions approved by the Village Council.

### **SECTION 15-19. UNLAWFUL CONNECTIONS.**

Any person who will make any connection in any manner to any utility system, whether owned by the Village or not, without the prior knowledge and consent of the owner of such utility system will be deemed guilty of a misdemeanor.

### **SECTION 15-20. UNLAWFUL USE.**

No person, other than employees of the Village, will be authorized to connect, turn on, turn off, or disconnect any utility service offered by the Village, or remove, replace, or repair any equipment connected to any such utility service.

### **SECTION 15-21. MAINTENANCE OF SYSTEM BY CONSUMER.**

The consumer of any utility service furnished by the Village will maintain and keep in good repair all connections, appliances, and other apparatus installed and used in connection with such utility service.

## **ARTICLE II. RATES AND CHARGES**

### **SECTION 15-22. DEFINITIONS.**

For the purposes of this Article, the following words and phrases will have the meanings respectively ascribed to them:

**BUSINESS UNIT.** An individual unit used for a separate business enterprise.

**LIVING UNIT.** An individual unit used primarily for residential purposes.

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**MULTI-UNIT STRUCTURE.** A structure containing more than one living unit, or more than one business unit, or any combination of living units and business units. This definition will not be considered to include hotels or motels.

### **SECTION 15-23. METERS REQUIRED.**

Meters for the measurement of utility services furnished by the Village will be required for all water service furnished by the Village. Such meters will be furnished and installed by, and will remain the property of the Village.

### **SECTION 15-24. ACCESS TO METERS.**

Free access to utility meters will be granted to the Village at all reasonable times.

### **SECTION 15-25. DEPOSITS REQUIRED.**

The owner or occupant of any structure entering into a service contract for water, sewer, or other service provided by the Village to said structure will do so upon making a deposit of such sums as follows: Every owner occupying a residence shall pay a deposit in the amount of \$50.00. Every renter occupying a residence shall pay a deposit of \$100.00. Every business shall pay a deposit in the amount of \$100.00.

### **SECTION 15-26. REFUND OF DEPOSIT.**

Refunds of deposits made for utility service returned to the owner or occupant upon vacating the property when all current and delinquent utility bills are paid in full. Application of the deposit may be made in partial or total settlement of accounts when the supply is cut off for nonpayment of the bill, or for any infraction or violation of any ordinance, rule, or regulation of the Village relative to utility services offered by the Village.

### **SECTION 15-27. EFFECT OF TRANSFER, MOVING.**

There will be no transfer, or so-called transfer, from one location to another of deposits made for utility services until all indebtedness for utility service has been paid in full to the Village. In each case, the transfer will be considered a new application for service and will be treated as such. When premises are vacated, any amounts due for water service will be paid in full, and utility service will not commence at another place until this is done. Such removal from one place to another will be considered a new request for utility service, and applicants will be required to have the current deposit, in full, credited to the new account.

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### **SECTION 15-28. TAP AND CONNECTION FEES.**

The owner or occupant of any structure may enter into a service contract with the Village for water service to such structure upon paying the established tapping charge to the Village (sometimes referred to as the “water tap fee” or “connection fee”) which will be set by the Village Council from time to time.

The owner or occupant of any structure may enter into a service contract with the Village for sewer service to such structure upon paying the established tapping charge to the Village (sometimes referred to as the “sewer tap fee” or “connection fee”) which will be set by the Village Council from time to time.

Nothing herein will be construed as not requiring payment of both the water tap fee and the sewer tap fee if a structure is to receive both water and sewer service.

### **SECTION 15-29. WATER RATES – BASIC SCHEDULES.**

The schedule of basic rates to be charged for the use of water facilities of the Village by all users thereof will be based on the quantity of water used per month, and will be charged monthly per meter as follows:

The first 4000 gallons (minimum) will be charged \$16.00; and \$2.45 for each 1000 gallons of water used that exceeds 4000 gallons, up to 6,000 gallons. From 6,001 to 10,000 gallons, an additional \$2.95 will be charged for each 1000 gallons. From 10,001 gallons and up, an additional \$3.90 will be charged for each 1000 gallons. The rates will increase 4% on January 1 of each year through unless amended by the Village Council. The Village Council will review the annual increase on an annual basis. Any increase will apply to water, sewer, and solid waste, as determined by the Village Council. These rates will apply to all water customers inside as well as outside the Melrose village limits.

### **SECTION 15-30. SEWER RATES - RESIDENTIAL.**

The charge for the use of the sewer facilities for all residential users of the Village’s sewer system, except as otherwise provided in this Article, will be a flat monthly rate as follows:

1. Per unit connected to the sewer system: \$25.00

### **SECTION 15-31. SEWER RATES – COMMERCIAL.**

The charge for the use of the sewer facilities for all commercial users of the Village’s sewer system, except as otherwise provided in this Article, will be a flat monthly rate as follows:

1. Small commercial users per unit connected to the sewer system: \$25.00
2. Large commercial users per unit connected to the sewer system: \$25.00

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### **SECTION 15-32. PERSONS TO BE BILLED.**

The Village will bill any owner of such connected property for the payment of such fees, rates, tolls, and charges specified herein; provided that the Village will bill a lessee or lessees obligated to pay such fees, rates, tolls, and charges upon written notice delivered to the Municipal Clerk and executed by both the owner or owners and the lessee or lessees of the connected property. The fees, rates, tolls, and charges will be due regardless of the person or persons billed thereof or so designated to be billed therefore.

### **SECTION 15-33. MANNER OF BILLING.**

All fees, rates, and charges imposed under the provisions of this Article will be billed jointly on one monthly bill, itemizing the charges for individual services and will be rendered on the first day of each month in the month next succeeding the month, or fraction thereof, in which the services were rendered. The total amount indicated will be paid by the consumer or user of the utility services. Partial payments will be accepted as long as the total amount owed is paid within thirty (30) days to avoid disconnection.

### **SECTION 15-34. WHEN PAYMENT DUE.**

Bills rendered under the provisions of this Article will be due and payable sixteen (16) days from the date rendered.

### **SECTION 15-35. COLLECTION.**

In the event any bill rendered under the provisions of this Article is not paid within sixteen (16) days after the date when rendered, the fees, rates, and charges due will be forthwith collected in a lawful manner, including, but not limited to, disconnection of the property, subject to any delinquency, from the Village utility services. Charges shall include a delinquent fee in the amount of \$10.00 per connection if any bill is not paid within the time allotted. Water and other utility services may not be turned off if medical reasons or financial hardship can be proven by the owner or occupant being provided services, to the satisfaction of the Village. Such proof shall be submitted to the Village Council for approval and arrangement for payment.

In the event water and utility service is turned off for non-payment, a reconnect fee in the amount of \$20.00 shall be paid to the Village of Melrose before service is restored.

### **SECTION 15-36. DISCONNECTION AND RECONNECTION.**

Upon payment in full of all delinquent fees, rates, and charges due in connection with any service connection, such property may be reconnected to the utility system at the expense of any owner thereof.

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### **SECTION 15-37. LIEN AND ENFORCEMENT.**

Pursuant to Sections 14-22-6 and 14-35-1 to 14-35-5, NMSA, as amended, both inclusive, all laws thereunto enabling, all fees, rates, and charges will be payable by the owner, personally, at the time said fees, rates and charges accrue and become due, and constitute a perpetual lien on and against the tract or parcel of land served. Pursuant to said Section 14-22-6, any such lien will be forthwith foreclosed in the same manner as provided by Sections 14-35-1 to 14-35-5, both inclusive, of said compilation, to enforce such lien as to each tract or parcel of land which will be delinquent in the payment of charges imposed hereunder. The lien against the real estate will otherwise be foreclosed in the same manner that mortgages or other liens are foreclosed in this state with like rights of redemption.

### **SECTION 15-38. VOLUNTARY DISCONTINUANCE OF SERVICE.**

Consumers wishing to discontinue the use of any utility service will give written notice at City Hall. Failure to do so will render them liable for the payment of all bills until such notice has been given.

## **ARTICLE III. SEWER SPECIFICATIONS**

### **SECTION 15-39. SCOPE.**

The provisions of this Article constitute the minimum standards for the design and construction of new sewer lines and connections to the Village's sewer system within the jurisdiction of the Village.

### **SECTION 15-40. MATERIALS – GENERALLY.**

All materials will be new, unused, and of the best standard quality available for the purpose intended. Where ASA, ASTM, AWWA, and NSF Standards and Codes have been formulated, materials will conform to such standards and codes.

### **SECTION 15-41. MATERIALS – VITRIFIED CLAY SEWER PIPE.**

Vitrified clay sewer pipe will be either glazed or unglazed pipe conforming to the latest revision of ASTM Specification C-700 for Standard Strength Clay Pipe. Joints for clay pipe will be pre-formed and will conform to the latest revision of ASTM Specification.

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### **SECTION 15-42. MATERIALS – PVC GRAVITY SEWER PIPE.**

PVC gravity sewer pipe will be manufactured of Type I, Grade I, Polyvinyl Chloride ASTM D-1784 compounds. Joints for PVC sewer pipe will be rubber ring bell and spigot or sleeve type with rubber gaskets conforming to the requirements of the latest revision of ASTM Specifications D-1869 or equal. Bells and sleeves will be of the long body type providing a deep socket. PVC sewer pipe will conform to ASTM Specifications D-3033 or D-3034.

Fittings for PVC sewer pipe will be of the pre-formed smooth radius, factory manufactured type. Fittings will correspond to the dimensions and requirements of the same ASTM Specifications as the sewer pipe.

### **SECTION 15-43. MATERIALS – CAST IRON PIPE.**

Cast iron pipe couplings and gaskets will conform to Federal Specifications WW-P 421b for centrifugally cast-iron pipe. Cast iron pipe will be seal coated inside and coated outside. Pipe will be thickness Class 22. Standard flange connections will be provided where required in the pumping stations. Fittings may be either mechanical joint or push-on type. Adaptors will be furnished for connection of cast iron pipe to adjacent sections of VC or PVC sewer lines.

### **SECTION 15-44. STEEL CASING FOR SEWER LINES.**

Steel casing for sewer lines will be new or used steel pipe with a minimum yield strength of 35,000 psi. Minimum wall thickness will be 0.188 inches for casing under fourteen (14) inches. Casing with an O.D. of fourteen (14) or sixteen (16) inches will have a minimum wall thickness of 0.219 inches.

The inside diameter of the casing will be at least two (2) inches larger than the outside diameter of the carrier pipe joints. Casing pipe will be connected welding to prevent leakage, and will be installed by boring and jacking to lines and grades.

All casing pipe will be coated with coal tar enamel and wrapped with bonded fifteen (15) pound asbestos felt. If the contractor elects, the casing may be installed without the protective coating provided the wall thickness of the casing furnished is at least 0.063 inches larger than the minimum wall thickness required for casing with protective coating.

Corrugated metal pipe may be used as casing, provided it is coated and wrapped as specified for steel pipe, and provided it has a minimum of 12-gauge wall thickness.



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### **SECTION 15-45. MANHOLES.**

Manholes may be constructed of pre-cast reinforced concrete sections, manhole masonry blocks, clay brick, or prefabricated fiberglass reinforced polyester.

1. Pre-cast reinforced concrete manhole sections will be designed and fabricated in accordance with the latest revision of ASTM C-478. Shop drawings and manufacturing specifications will be furnished for approval prior to shipment of pre-cast manholes.
2. Masonry manhole blocks will conform to the latest revision of ASTM Specifications C-145 for Grade A Blocks.
3. Clay sewer brick will conform to the latest revision of ASTM Specifications C-145 for Grade A Blocks.
4. Fiberglass, reinforced composite manholes will be as manufactured by Owens-Corning Fiberglass Corporation, Series M-1, in street loading, or equal.
5. Manhole steps will be installed at sixteen (16) inch intervals in all manholes over thirty-six (36) inches in depth. Steps will be aluminum or cast-iron standard manhole steps.
6. Manhole frames and covers will be cast iron traffic type, with a solid lid and clear, round opening of not less than twenty-two (22) inches in diameter. The bearing surface of the frame and lid will be ground as necessary to provide full surface, non-rocking contact. The manhole frame and cover will weigh at least three hundred (300) pounds. The word “sewer” will be permanently cast into each lid. A hole or slot to facilitate removal will be provided in each lid.

### **SECTION 15-46. LAYING OF SEWER PIPE.**

In addition to the aforementioned specifications, all PVC sewer pipelines will be installed in accordance with ASTM D-2321, “Recommended Practice for Underground Installation of Flexible Thermoplastic Sewer Pipe”, and in accordance with the pipe manufacturer’s recommendations. All clay sewer pipe will be installed in accordance with ASTM C-12, “Recommended Practice for Installing Clay Sewer Pipe”, and with the following specifications:

1. Gravity sewer mains will be laid with batter boards and string line, or with an approved laser beam to insure proper grades and alignment. Prior to placing the sewer pipe, the trench bottom will be carefully hand graded to provide uniform support along the barrel, and bell holes will be excavated to accommodate the pipe bell. The pipe will be joined in accordance with the manufacturer’s recommendations. After joining, the pipe will be bedded and backfill material placed to the pipe centerline, and hand or machine tamped to provide a firm, uniform bedding for the pipe. Additional backfill will then be placed to provide at least four (4) inches of suitable cover over the pipeline before any material is placed with machinery. Force mains will be laid with a minimum cover of three (3) feet.

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2. All pipe will at all times be handled, stored, and installed in a manner that will prevent the intrusion of dirt, mud, or other foreign substances into the line. Prior to joining, each section of pipe will be inspected, and any dirt or objects will be removed from the inside of the line.
3. The contractor will keep all trenches dry during the installation of the sewer lines. De-watering will be accomplished when the ground water level is above the flow line grade of the installation. All open pipe ends will be tightly plugged when work is not in progress, and water will not be permitted to run through the length of pipe already laid. Should mud, dirt, trash, etc. be permitted to enter the pipe during installation, the contractor will flush or scrape the pipe thoroughly to ensure complete removal of all foreign objects prior to connection to the existing system.
4. Concrete encasement or cast-iron pipe will be provided at locations where spacing from water mains is less than permitted by the State Environmental Improvement Agency, or where additional protection of the sewer lines is desirable.

### **SECTION 15-47. SERVICE CONNECTIONS.**

Sewer service lines will be provided in areas where an existing sewer main is being replaced and where the existing services must be transferred to the new main.

The new service line will be laid with the uniform grade and alignment. Horizontal runs will be graded not less than one-eighth (1/8) inch per foot toward the main. Slopes in excess of ten percent (10%) will generally be avoided. Vertical drops to the main will generally be used to adjust for differences in grade. A standard connecting piece and/or adaptor will be used at locations where two different types of pipe are joined.

Materials for the service lines will be four (4) inches vitrified clay or PVC pipe. Bends and fittings required for a suitable installation will be factory manufactured of the same material as the service line, where possible. All service connections will be installed in a workmanlike manner in order to eliminate potential leakage or inflow into the system.

### **SECTION 15-48. MANHOLES.**

Concrete for manhole and lift station bases will contain not less than six (6) sacks of cement per cubic yard, and will have a water content, including free moisture in the aggregate, not exceeding six (6) gallons per sack of cement. All concrete will have a minimum twenty-eight (28) day strength of three thousand (3000) psi when the test cylinder is cured under conditions similar to those surrounding the placed concrete. No concrete will be placed which has a slump exceeding two (2) inches when tested in accordance with the provisions of the latest revision of AASHTO Designation T-119. No concrete will be placed in water.

Manhole steps will be placed at sixteen (16) inch intervals from the base of the manhole. The sewer lines may be discontinuous through the manholes, or the pipe may be laid through and broken out after the base has been formed.

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The concrete base will be finished with smooth, uniform, full section channels to control the flow of sewage. A smooth, uniform radius will be provided in manholes where the direction of flow changes.

The outside of masonry or brick manholes will be plastered with Portland cement mortar at least one-half (1/2) inch in thickness. The outside of pre-cast manholes will be plastered if necessary, to prevent seepage of ground water through the manhole walls.

All PVC sewer pipe connections to manholes will be made with a transit collar with rubber gaskets to provide a water-tight seal, or with a suitable caulked joint.

The top of each manhole will be accurately set so that it will be flush with paved or concrete surfaces, three (3) inches below the surface of graveled or unimproved roadways, and six (6) inches above the surface in open areas.

During the manhole construction, the contractor will keep all pavement, concrete, tile, and other debris from entering the sewer pipe or accumulating on the manhole base.

Backfill around each manhole will conform to the compaction requirements for the adjacent trench.

### **SECTION 15-49. TESTING OF SEWER LINES AND FORCE MAINS.**

All sewer lines, including manholes, will be subject to a visual test by lamping between manholes to check for straight alignment and cleanliness, and an exfiltration test to check for tightness. The Village inspector will select at least twenty percent (20%) of the total lines for exfiltration testing. If all lines selected for such testing successfully pass the test, the Village inspector may waive exfiltration tests on the balance of the lines; however, if leakages above the allowable are observed, the Village inspector may direct that all sewer lines installed be tested. All equipment, material, labor, etc. required for adequate testing will be furnished by the contractor.

## **ARTICLE IV. SOLID WASTE**

### **SECTION 15-50. DEFINITION.**

Scavenging commonly know as “Dumpster Diving”. To search through dumpsters or similar trash/solid waste/recycling receptacles for edible food or items of value.

### **SECTION 15-51. SOLID WASTE – RESIDENTIAL**

The charge for the use of solid waste facilities for all residents of the Village of Melrose will be at the prevailing flat rate per month per unit connected to the water system.

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Residents may use the Convenience Centers for household waste only; or may use the Melrose Solid Waste Transfer Station for household and other types of waste. Signs will be posted at the Convenience Centers listing those items that may and may not be placed in the dumpsters. Anyone who fails to comply with the posted regulations will be in violation of the article.

### **SECTION 15-52. RESIDENTIAL BILLING.**

The manner of billing Melrose residents for solid waste and the collection thereof will be the same as for the water and sewer utilities, billed jointly on one monthly bill.

### **SECTION 15-53. SOLID WASTE-COMMERCIAL: NON-RESIDENTS RATES.**

The charge for the use of solid waste facilities for all commercial, business, industrial, and non-residents will be on a per-load basis, unless the commercial, business, industrial, or non-residents have paid to the Village of Melrose a monthly fee for the disposal of their solid waste. All others are required to dispose of their waste at the Solid Waste Transfer Station only, and will be charged at the site, according to the size of the load.

Waste that is deposited in dumpsters located at business or commercial sites shall be the responsibility of the business or commercial owner, and subject to illegal dumping fines. Non-residents that use the Convenience Center for solid waste disposal will pay a monthly fee to the Village of Melrose at the prevailing flat rate.

The charge for having a dumpster at any commercial, business, industry, and non-residence will be charged a fee per dumpster each time the dumpster is emptied, except for large commercial or business, and the Melrose Municipal Schools, which will be at the prevailing flat rate per month.

### **SECTION 15-54. SOLID WASTE- LARGE LOADS.**

The dumpsters at the Convenience Center or at any other location are for household waste only. Anything other than household waste and large loads, must be taken to the Solid Waste Transfer Station. Residents will be charged a fee above to the prevailing flat rate that is charged on the monthly utility billing for a pick-up size load, no higher than the top of the truck bed. Non-residents will be charged a fee per pick-up size load, no higher than the top of the truck bed. Nothing larger than a pick-up size load will be accepted. Load size and charges will be determined by and at the discretion of the Solid Waste Transfer Station Operator.

### **SECTION 15-55. BRUSH, TREE LIMBS, AND YARD WASTE**

Brush, tree limbs, and yard waste will be accepted at the Solid Waste Transfer Station only. There will be no additional charge to residents of the Village of Melrose and those non-residents who pay a monthly fee. Anyone disposing of brush, tree limbs, and yard

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waste who has been hired to do so will be charged a fee for a pick-up load; and for a trailer load. Nothing larger will be accepted.

**SECTION 15-56. SCAVENGING/ “DUMPSTER DIVING”.**

It is unlawful for any person to scavenge on or in any Village owned properties including any and all Village owned buildings, vacant tracts of land, Solid Waste Convenience Center, Solid Waste Transfer Station, and any and all Village owned Solid Waste or Recycling receptacles unless holding written authorization provided by the Village.

**SECTION 15-57. EXCEPTIONS.**

None.

**SECTION 15-58. PENALTY.**

Any individual(s) who is found in violation of this Section or fails to comply with any of its requirements will be subject to penalties as outlined in Section 1-7 of the Village of Melrose Code of Ordinances.

**SECTION 15-59. RESERVED.**

**CHAPTER 16**  
**BUSINESS FEES AND LICENSES**

**ARTICLE I. BUSINESS REGISTRATION FEE**

**SECTION 16-1. IMPOSITION OF BUSINESS REGISTRATION FEE.**

There is imposed on each place of business conducted in this municipality, a business registration fee of twenty-five dollars (\$25.00) per year. The fee is imposed pursuant to Section 3-38 NMSA 1978 as it now exists or is amended, and will be known as the “Business Registration Fee”. The fee may not be pro-rated for business conducted for a portion of a year.

**SECTION 16-2. EXEMPTION.**

No Business Registration Fee will be imposed on any business which is licensed under Article II of this Chapter, pursuant to 3-38-1 NMSA 1978.

**SECTION 16-3. APPLICATION.**

Any person proposing to engage in business and whose primary business office is within the corporate limits of this Village will apply for and pay a Business Registration Fee for each outlet, branch, or location within the Village limits prior to engaging in business, unless such person is required to obtain a Business License under Article II of this Chapter.

Any person filing an application for issuance or renewal of any Business Registration will include in the application his/her current Taxation and Revenue Department taxpayer identification number, or evidence of application for a current taxpayer identification number.

**SECTION 16-4. RENEWAL.**

Prior to March 16 of each year, any person with a place of business in Melrose and is subject to this Article, will apply for a renewal of his/her Business Registration with the Municipal Clerk.

**SECTION 16-5. PENALTY.**

Any person who violates this Article or fails to comply with any of its requirements will be subject to a penalty of ten dollars (\$10.00) per year.

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**SECTION 16-6. SEVERABILITY.**

Should any section, paragraph, clause, or provision of this Article, for any reason be held invalid or unenforceable, the invalidity or enforceability will not affect any of the remaining provisions of this Article.

**SECTION 16-7. REPEAL.**

All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer will not be construed to revive any ordinance or resolution or part thereof, heretofore repealed.

**ARTICLE II. BUSINESS LICENSE FEE**

**SECTION 16-8. LICENSE REQUIRED.**

It will be unlawful for any person to engage in the following businesses, professions, or trades as defined in Section 16-9 of this Article within the corporate limits of this Village without first obtaining a license as resolved herein and pursuant to Section 3-38-1 NMSA 1978 as amended.

**SECTION 16-9. TYPES OF BUSINESSES & FEES.**

Before conducting, operated, or engaging in any such business, trade, or occupation within the corporate limits of this Village, every business will pay in advance for each location, the respective amounts hereinafter set forth:

1. Traveling Shows                 \$100.00 per day.
2. Circuses                         \$300.00 per day.
3. Carnivals                        \$300.00 per day.
4. Wrestling Exhibitions        \$200.00 per day.

**SECTION 16-10. APPLICATION.**

Applicants for licenses under this Article must file with the Municipal Clerk a sworn application in writing, on a form to be furnished by the Municipal Clerk, which will include, but is not limited to the following information:

1. Full name.
2. Address.
3. Current Taxation and Revenue Department taxpayer identification number or evidence of applicant for a current taxpayer identification number.
4. A brief description of the nature of the business.
5. Proof of insurance coverage.

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**SECTION 16-11. BUSINESS LICENSE FEES; ASSESSMENT; ISSUANCE OF LICENSE.**

On or before March 15 of each year, all businesses engaged in a type of business enumerated under Section 16-9 will apply for a Business License for that year and include payment with the application.

Upon payment of the Business License fee, the Municipal Clerk will issue a Business License to the applicant.

Any business may protest the Business License fee assessment by filing a written protest with the Municipal Clerk on or before March 15. The Village Council will give the protesting business no less than five (5) days notice of a hearing, at which time, the protest will be heard by the Council.

Any business which must have a Business License per this Article, and which begins operation after March 15 of the calendar year, will apply to the Municipal Clerk for a Business License prior to engaging in business. The amount of the license fee will be pro-rated based upon the number of days during the year when the business is conducted, except that businesses subject to a daily license fee will pay the fee for the number of days during which business is conducted, and the fee will be paid in advance.

**SECTION 16-12. PENALTY.**

Any business which violates this Article or fails to comply with any of its requirements will be subject to a penalty of ten dollars (\$10.00). Each day the business violates this Article or fails to comply with any of its requirements will constitute a separate offense.

The Village may also initiate collection and enforcement procedures as outlined in Sections 3-38-5 and 3-38-6 of Chapter 37, Laws of New Mexico.

**SECTION 16-13. REPEAL OF CONFLICTING ORDINANCES.**

All ordinances or parts of ordinances inconsistent with the Article are hereby repealed.

**SECTION 16-13. RESERVED.**



**CHAPTER 17**  
**FAIR HOUSING**

**SECTION 17-1. POLICY.**

It is the policy of the Village of Melrose to provide, within constitutional limitations, for fair housing throughout the Village.

**SECTION 17-2. DEFINITIONS.**

**DWELLING.** Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

**FAMILY.** Includes a single individual.

**PERSON.** Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

**TO RENT.** Includes to lease, to sublease, to let, and otherwise to grant for a consideration, the right to occupy premises owned by the occupant.

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under Sections 17-4, 17-5, or 17-6.

**SECTION 17-3. UNLAWFUL PRACTICE.**

Subject to the provisions of subsection 2 and Section 17-7, the prohibitions against discrimination in the sale or rental of housing set forth in Section 17-3 will apply to:

1. All dwellings except as exempted in subsection 2.
2. Nothing in Section 17-4 will apply to:
  - 1) Any single-family house sold or rented by an owner, provided, that such private individual owner does not own more than three (3) such single-family houses at any one time. Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection will apply only with respect to one such sale within any twenty-four hour period. Provided further, that such bona fide private individual owner does not own any interest in, or is there owned or reserved on his/her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than

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three (3) such single-family house at any one time. Provided further, that the sale or rental of such house will be excepted from the application of this title only if such house is sold or rented (a) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person (b) without the written notice in violation of Section 17-4 (c) of this Chapter.

- 2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, or the owner actually maintains and occupies one of such living quarters as his/her residence.
- 3) For the subsection (2), a person will be deemed to be in the business of selling or renting dwellings if:
  - a. he/she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or has any interest therein; or
  - b. he/she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence in providing sales or rental facilities, or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or interest therein; or
  - c. he/she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

### **SECTION 17-4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING**

As made applicable by Section 17-3, and except as exempted by Section 17-3 and 17-7, it will be unlawful:

1. To refuse to sell or rent after making a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.
2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services of facilities in connection therewith, because of race, color, religion, or national origin.
3. To make, print, or publish, or cause to be made printed, or published, any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.
4. To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental, when such dwelling is, in fact, so available.
5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

**SECTION 17-5. DISCRIMINATION IN THE FINANCING OF HOUSING.**

It will be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him/her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin or such person or of any person associated with him/her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling(s) in relation to which such loan or other financial assistance is to be made or given. Nothing contained in this Section will impair the scope or effectiveness of the exception contained in Section 17-3.

**SECTION 17-6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

It will be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership, or participation on account of race, color, religion, or national origin.

**SECTION 17-7. EXEMPTION.**

Nothing in this Chapter will prohibit a religious organization, association, or society, or any non-profit institution or organization-operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor will anything in this Chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose(s) provides lodging which it owns or operates for other than a commercial purpose, from limiting rental or occupancy of such lodgings to its members or from giving preference to its members.

**SECTION 17-8. ADMINISTRATION.**

The authority and responsibility for administering this Chapter will be in the Chief Executive Officer of the Village of Melrose, the Mayor.

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1. The Chief Executive Officer may delegate any of these functions, duties, and powers to employees of the Village, or to boards of such employees, including functions, duties, and powers, with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Chapter. The Chief Executive Officer will prescribe such rights of appeal from the decisions of his/her hearing examiners to other hearing examiners, or to other officers in the Village, to boards of officers, or to him/herself, as is appropriate and in accordance with the law.
2. All Executive departments and agencies will administer their programs and activities relating to housing and urban development and any case involving the temporary relocation of citizens for the betterment of housing in a manner affirmatively to further the purposes of this Chapter, and will cooperate with the Chief Executive Officer to further such purposes.

### **SECTION 17-9. EDUCATION AND CONCILIATION.**

The Chief Executive Officer will conduct such educational and conciliatory activities as will further the purposes of this Chapter. At such times he/she deems it appropriate, he/she will call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this Chapter, his/her suggested means of implementing it, and will endeavor with their advice to work out programs of voluntary compliance and of enforcement.

### **SECTION 17-10. ENFORCEMENT.**

Any person who claims to have been injured by a discriminatory housing activity or who believes that she/she will be irrevocably injured by a discriminatory housing practice that is about to occur, or has a complaint by the actions taken when temporarily displaced in the event of housing rehabilitation, hereinafter referred to as the “person aggrieved” may file a complaint with the Chief Executive Officer. Complaints will be in writing and will contain such information and be in such form as the Chief Executive Officer requires. Upon receipt of such a complaint, the Chief Executive Officer will furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period or reference, the Chief Executive Officer will investigate the complaint and give notice in writing to the person aggrieved whether he/she intends to resolve it. If the Chief Executive Officer decides to resolve the complaint(s), he/she will proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this Chapter without the written consent of the person(s) so concerned. Any employee of the Chief Executive Officer who makes public any information in violation of this provision will be deemed guilty of a misdemeanor, and upon conviction thereof, will be fined not more than one thousand dollars (\$1000.00) or imprisoned not more than one (1) year.

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A complaint under the above paragraph will be filed within one hundred eight (180) days after the alleged discriminatory housing practice occurred. Complaints will be in writing and will state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him/her and with the leave of the Chief executive Officer, which will be granted whenever it would be reasonable and fair to do so, may amend his/her answer at any time. Both complaints and answers will be verified.

If, within thirty (30) days after a complaint is filed with the Chief Executive Officer, he/she has been unable to obtain voluntary compliance with this Chapter, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in this filing.

If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty (3) days of the complaint, the person aggrieved may, within thirty (30) days thereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this Chapter, insofar as such rights relate to the subject of the complaint. If the Court finds that a discriminatory housing practice has occurred, or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

In any proceeding brought pursuant to this Section, the burden of proof will be on the complainant.

Whenever an action filed by an individual will come to trial, the Chief Executive Officer will immediately terminate all efforts to obtain voluntary compliance.

### **SECTION 17-11. INVESTIGATIONS, SUBPOENAS, GIVING OF EVIDENCE.**

In conducting an investigation, the Chief Executive Officer will have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence, and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. Provided, however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his/her access, or to the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.

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Upon written application to the Chief Executive Officer, a respondent will be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer him/herself. Subpoenas issued at the request of a respondent will show on their face the name and address of such respondent, and will state that they were issued at his/her request.

Witnesses summoned by subpoena of the Chief Executive Officer will be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent will be paid by that respondent.

Within five (5) days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer will grant the petition if he/she finds that the subpoena requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

In case of refusal to obey a subpoena, the Chief Executive Officer or other person at whose request it was issued, may petition for its enforcement in the Municipal or State Court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his/her power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer will be fined not more than one thousand dollars (\$1000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the Chief Executive Officer, will make or cause to make any false entry or statement of fact in any report, account, record, or other document submitted to the Chief Executive Officer pursuant to his/her subpoena or other order, or will neglect or willfully fail to make or cause to be made full, true and correct entries in such reports, accounts, records, or other documents, or will mutilate, alter, or by any other means willfully falsify any documentary evidence, will be fined not more than one thousand dollars (\$1000.00) or imprisoned not more than one (1) year, or both.

### **SECTION 17-12. ENFORCEMENT BY PRIVATE PERSONS.**

The rights granted by Sections 17-3, 17-4, 17-5, and 17-6 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action will be commenced within one hundred eight (180) days after the alleged discriminatory housing practice occurred. Provided, however, that the court will continue such civil case brought pursuant to this Section of Section 17-10 from time to time before bringing it to trial if the court believes that the conciliation efforts of the Chief Executive Officer are likely to

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result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Chief Executive Officer and which practice forms the basis for the action in court. Provided, however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this Chapter, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provision of this Chapter will not be effected.

The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than one thousand dollars (\$1000.00) punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff; provided that the said plaintiff, in the opinion of the court is not financially able to assume said attorney's fees.

### **SECTION 17-13. INTERFERENCE, COERCION, OR INTIMIDATION.**

It will be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his/her having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 17-3, 17-4, 17-5, or 17-6. This Section may be enforced by appropriate civil action.

### **SECTION 17-14. SEPARABILITY OF PROVISIONS.**

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter and the application of the provision to other persons not similarly situated or to other circumstances will not be affected thereby.

### **SECTION 17-15. PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with, or attempts to injure, intimidate, or interfere with:

1. Any person because of his/her race, color, religion, or national origin and because he/she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.
2. Any person because he/she is or has been, or in order to intimidate such person or any other person or any class of persons from:
  - a. participating, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in paragraph 1 above.

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- b. affording another person or class of persons opportunity or protection so to participate.
- c. Any citizen because he/she is or has been, or in order to discourage such citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in paragraph 1 above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate will be fined not more than one thousand dollars (\$1000.00) or imprisoned not more than one (1) year, or both; and if bodily injury results, will be fined not more than ten thousand dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both; and if death results, will be subject to imprisonment for any term of years or for life.



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**CHAPTER 18**  
**STORAGE AND SALE OF FIREWORKS**

**SECTION 18-1. POLICY.**

It is the policy of the Village of Melrose to provide, within Constitutional limitations, regulating the storage and sale of fireworks consistent with State Law.

**SECTION 18-2. DEFINITIONS.**

**COMMON FIREWORKS.** Any fireworks device suitable for use by the public that complies with the construction, performance, composition, and labeling requirements promulgated by the United States consumer product safety commission in Title 16, CRF and that is classified as a Class C explosive by the United States Department of Transportation.

**VILLAGE COUNCIL.** The Village Council of Melrose, New Mexico.

**FIRE CHIEF.** The Chief of the Village of Melrose Fire Department.

**DISTRIBUTOR.** Any person, firm, or corporation selling fireworks to wholesalers and retailers for resale.

**FIREWORK.** Any composition or device for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks are further classified in the Melrose Fireworks Ordinance as common fireworks and special fireworks, as defined by the United States Department of Transportation, CFR Title 49.

**GROUND AUDIBLE DEVICE.** A firework device intended to function on the ground that produced an audible effect.

**AERIAL DEVICE.** A fireworks device that upon ignition, propels itself or an insert a significant distance into the air, but does not include a firework that produces a shower of sparks. Aerial devices includes sky rockets, bottle rockets, missile-type rockets, stick-type rockets, helicopter, aerial spinner, roman candle, and mine shell.

**DISPLAY DISTRIBUTOR.** Any person, firm, or corporation selling special fireworks.

**MANUFACTURER.** Any person, firm, or corporation engaged in the manufacture of fireworks.

**PERMISSIBLE FIREWORKS.** Any fireworks legal for sale and use in the Village of Melrose under the provisions of the Melrose Fireworks Ordinance.

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**RETAILER.** Any person, firm or corporation purchasing fireworks for resale to consumers.

**SPECIAL FIREWORKS.** Fireworks devices primarily intended for commercial displays which are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred milligrams (two grains) of explosive composition, aerial shells containing more than forty grams of chemical composition exclusive to lift charges and other exhibition display items that exceed the limits contained in the Melrose Fireworks Ordinance for common fireworks.

**SPECIALTY RETAILER.** Any person, firm, or corporation purchasing fireworks for year-round resale in permanent retail stores whose primary business is tourism.

**WHOLESALE.** Any person, firm, or corporation purchasing fireworks for resale to retailer.

### **SECTION 18-3. LICENSE OR PERMIT REQUIRED.**

1. No person may sell, hold for sale, import, distribute, or offer for sale, as specialty retailer, or retailer any fireworks in the Village of Melrose unless such person has first obtained the appropriate license or permit.
2. The Fire Chief shall enforce the Melrose Fireworks Ordinance. All license applications shall be submitted to the Office of the Municipal Clerk. All retailers shall be required to purchase a retail fireworks permit for each retail location.
3. An application for a license or permit under the Melrose Fireworks Ordinance shall pay to the Village of Melrose the following fees, which shall not be refundable:
  - a. Specialty Retailer license: \$25.00
  - b. Retailer permit: \$10.00
4. All licenses and permits shall be issued for one year beginning May 1 of each year. All licenses and permits shall be issued within thirty days from the date of receipt of application.
5. Licenses under the Melrose Fireworks Ordinance shall not be restricted in number or limited to any person without cause.

### **SECTION 18-4. POSSESSION, SALE, OR USE OF UNAUTHORIZED FIREWORKS**

#### **UNLAWFUL.**

No individual, firm, partnership, corporation, or association shall possess for retail sale in the Village of Melrose, sell or offer for sale at retail or use or possess any fireworks other than the permissible fireworks.

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### **SECTION 18-5. EXPORTATION OF FIREWORKS FROM THE VILLAGE.**

Nothing the Melrose Fireworks Ordinance shall prohibit wholesalers, distributors, importers, specialty retailers, or manufacturers from storing, selling, shipping or otherwise transporting fireworks as defined by the United States Department of Transportation to any person or entity outside the Village.

### **SECTION 18-6. PERMISSIBLE FIREWORKS.**

Permissible fireworks for sale to the general public as that term is used in the Melrose Fireworks Ordinance shall be understood to mean common fireworks legal for sale and use in New Mexico under the provisions of the Fireworks Licensing and Safety Act in MMSA 1978, as amended, with the exception of ground audible devices and aerial devices, which are prohibited.

### **SECTION 18-7. RETAIL SALES OR STORAGE OF FIREWORKS; REGULATED ACTIVITIES.**

1. No fireworks may be sold at retail without a retail permit. The permit shall be at the location where the retail sale takes place.
2. It is unlawful to offer for sale or to sell any fireworks to children under the age of twelve (12) years old, or to any intoxicated person.
3. At all places where fireworks are stored, sold, or displayed, the words “NO SMOKING” shall be posted in letters at least four inches in height. Smoking is prohibited within twenty-five feet of any fireworks stock.
4. No fireworks shall be stored, kept, sold, or discharged within fifty feet of any gasoline pump or gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints, and oils are handled in sealed containers only.
5. All fireworks permittees and licensees shall keep and maintain upon the premises a fire extinguisher bearing an Underwriters Laboratories, Inc. rated capacity of at least five pounds. ABC per five hundred square feet of space used for fireworks sales and storage.
6. A sales clerk who is at least sixteen years of age shall be on duty to serve consumers at the time of purchase or delivery. All fireworks sold and shipped to consumers within the Village of Melrose shall be sold and shipped only by an individual, firm, partnership, or corporation holding the proper State of New Mexico fireworks license or permit.
7. No fireworks shall be discharged within one hundred fifty feet of any fireworks retail sales location.
8. No person shall ignite any fireworks within a motor vehicle or throw fireworks from a motor vehicle, nor shall any person place or throw any ignited article or fireworks into or at a motor vehicle or at or near any person or group of people.
9. Any fireworks devices that are readily accessible to handling by consumers or purchasers in a retail sales location shall have the exposed fuses protected in a manner

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to protect against accidental ignition of an item by a spark, cigarette ash, or other ignition source. If the fuse is a thread-wrapped safety fuse which has been coated by a nonflammable covering, only the outside end of the safety fuse shall be covered. If the fuse is not a safety fuse, the entire fuse shall be covered.

10. Fireworks may be sold at retail between June 20 and July 6 of each year, and three days preceding and including New Year's Day, Chinese New Year, and Cinco de Mayo of each year, except that fireworks may be sold all year in permanent retail stores whose primary business is tourism.

### **SECTION 18-8. PUBLIC DISPLAY OF FIREWORKS.**

Nothing in the Melrose Fireworks Ordinance shall prohibit the public display of fireworks except that any individual, association, partnership, corporation, or organization shall secure a written permit from the Office of Municipal Clerk, and the fireworks shall be purchased from a distributor or display distributor licensed by the State Fire Marshal and the Bureau of Alcohol, Tobacco, and Firearms at the United States Department of Treasury.

The Fire Chief may adopt reasonable rules and regulations for the use of special fireworks in public displays.

### **SECTION 18-9. PENALTY: CRIMINAL.**

Any individual, firm, partnership, or corporation that violates any provision of the Melrose Fireworks Ordinance is guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment for not more than ninety (90) days, or both.

Nothing in the Melrose Fireworks Ordinance shall apply to or prohibit any employees of the Department of Game and Fish or the United States Fish and Wildlife Service from processing fireworks for control of game birds and animals, or to prohibit any law enforcement officer from possessing fireworks in the performance of his/her duties, or to prohibit any organization therein from sponsoring and conducting in connection with any public celebration, an officially supervised and controlled fireworks display.

### **SECTION 18-10. PENALTY: CIVIL.**

If a person is found guilty of violating any of the provisions of the Melrose Fireworks Ordinance, that person's license or permit may be revoked or suspended by the Fire Chief, his/her deputies, or designee.

No individual, firm, corporation, or partnership shall possess any fireworks for sale within the Village of Melrose, other than those authorized in the Melrose Fireworks Ordinance. The Fire Chief, his/her deputies, or designee may at reasonable hours enter and inspect the permittee's premises, building, mobile or motor vehicle, or temporary or

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permanent structure to determine compliance with the Melrose Fireworks Ordinance. If any retailer has in his/her possession any fireworks in violation of that act, his/her permit shall be revoked and all such fireworks seized, and the fireworks shall be safely kept to be used as evidence. Upon conviction of the offender, the fireworks shall be destroyed, but if the offender is discharged, the permissible fireworks shall be returned to the person in whose possession they were found; provided, however, that nothing in the Melrose Fireworks Ordinance applies to the transportation of fireworks by regulated carriers.

Any person found guilty of violating any of the provisions in the Melrose Fireworks Ordinance shall be subject to fine and imprisonment as provided in Chapter 1-7 of this Code of Ordinances.

### **SECTION 18-11. SEVERABILITY.**

If any section, subsection, clause, word, or phrase of this Ordinance is for any reason, held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance. The Village Council of the Village of Melrose hereby declares that it would have passed this Ordinance, each section, sentence, clause, word, and phrase thereof, irrespective of any one or more sections, subsections, sentence, clause, word, or phrase being declared unconstitutional or otherwise invalid.

**CHAPTER 19**  
**CEMETERY RULES**

**SECTION 19-1. POLICY.**

It is the policy of the Village of Melrose to provide rules and regulations for the sale of cemetery lots, and the operation and maintenance of Melrose Memorial Cemetery, and providing severability in regard to said cemetery.

**SECTION 19-2. SCOPE AND EFFECT OF RULES OF THE VILLAGE.**

All property owners and persons within the cemetery, and all plots sold in Melrose Memorial Cemetery shall be subject to this Chapter and such other rules, conditions, amendments, resolutions, additions, alterations, restrictions, regulations, ordinances now enforced, in effect or imposed later as shall be adopted by the Village. The reference to these rules in the deed or certificate of ownership shall have the same force and effect as if set forth in full in such deed or certificate.

**SECTION 19-3. CERTIFICATE OF OWNERSHIP; INCORPORATION OF RULES OF THE VILLAGE OF MELROSE**

A quitclaim deed or certificate of ownership shall be issued to each owner on full payment of the purchase price of each plot. The contract, certificate of ownership, and the rules of the Village and any amendments to such rules shall be the sole agreement between the Village and the owner or successor or assign in interest, and no statement of any representative of the Village contrary to such rules shall bind the Village. No resale of any lot will be authorized, other than to the Village, and the purchaser of any such lot shall be authorized only to resell same to the Village, which in each instance pay such owner upon execution of a quitclaim deed, the same amount for which any such lot was originally purchased.

**SECTION 19-4. GRADE AND USE OF LOTS/MEMORIALS/IMPROVEMENTS.**

The grade of lots is fixed at the time of sale and no change in the established grade will be allowed; no mounds are permitted, or raising, lowering, or depressing the surface on lots, nor stone, cement or iron hedges, or terrace enclosures, coping hedge, fence, wirework, curbing, seats, or vases; nor raised corners; nor trees or flower beds. Curbs, concrete borders, rock or concrete covers will be permitted only if placed at ground level so as not to impede the mowing or maintenance of any lot. The Village may remove from any lot objects that are out of keeping with these rules and the good order of the cemetery.

If any existing structure, curb, fence, seat, or other object is destroyed, substantially damaged, or removed then in all such instances, the object shall not be replaced.

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The size of the memorial, marker, or monument is subject to approval so as to be reasonably uniform and consistent with existing graves. If any monument, memorial, or inscription thereon is determined by the Village to be offense, improper, or injurious to the appearance of the surrounding lots, ground, or the cemetery, the Village reserves the right to enter such plot and cause the removal of the offensive or improper object(s). The Village also reserves the right to correct an improper inscription, including an incorrect name or date, either on the memorial or on the container for cremated remains. No homemade markers will be allowed. If any existing structure is destroyed, substantially damaged, removed, or otherwise replaced, the in all such instances, the new marker shall comply with this rule.

### **SECTION 19-5. OWNER’S USE OF CEMETERY ROADS AND WALKS; ACCESS TO PLOTS AND GROUNDS**

No easement or right of interment is granted to any plot owner in any road, drive, alley, or walk within the cemetery. Such road, drive, alley, or walk may be used as a means of access to the cemetery or lot, only so long as the Village devotes it to that purpose. Plot owners and their families and friends shall be allowed to access the cemetery grounds at all reasonable times and occasions in accordance with these rules.

### **SECTION 19-6. LANDSCAPING.**

In order to secure a proper landscaping development of the whole cemetery, all plantings are subject to the prior written permission of the Village, and any plantings made without such permission may be removed or altered by the Village. Where trees or shrubs trespass upon neighboring lots, drives, or alleys, they may be pruned or removed. Diseased shrubs or trees shall be promptly removed and destroyed.

Further, the cemetery shall have the authority to remove all floral designs, flowers, trees, vases, shrubs, plants or herbage, or any other type or kind of improvement or planting of any kind from the cemetery, when they obstruct the uniformity and usage, impede the mowing or maintenance of any lot, or the cemetery, or when they do not conform to these rules or the existing usage of the cemetery.

**CHAPTER 20**  
**SUBDIVISIONS**

**SECTION 20-1. SUBDIVISION DEFINED.**

Subdivide or subdivision: The division of land into two or more parts by platting or by metes and bounds description into tracts for the purpose of:

- a. Sale for building purposes
- b. Laying out the municipality or any part thereof
- c. Adding to the municipality
- d. Laying our suburban lots
- e. Re-subdivision

Subdivider: Any person who, having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who, directly or indirectly sells, leases or develops, or offers to sell, lease or develop or advertises for sale, or who engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development of a subdivision or any interest, lot parcel, site or plat in a subdivision; and who is directly or indirectly controlled by or under direct or indirect common control with any of the persons mentioned in this definition.

**SECTION 20-2. PLAT REQUIRED.**

Every person in possession of any tract of land situated within the Village of Melrose who proposes to subdivide the land shall submit a plat of such proposed subdivision to the Village Council for their approval.

**SECTION 20-3. WHAT IS REQUIRED.**

- A. Streets. A street of sufficient capacity to adequately serve adjacent lots and the expected traffic volume generated by the subdivision or development must be provided. All streets shown on the Melrose comprehensive plan or other official plans, must be dedicated. If arterial streets are required, the Village will participate in the development of the street; all other streets shall be constructed by the applicant. All streets shall be constructed of a minimum of double penetration of chip seal road construction. All streets and roads shall be designed on a projected needs for a twenty (20) year period.
- B. Right-of-Way Widths. The minimum right-of-way width standard shall be sixty feet (60') for a local street.
- C. Alleys. Alleys twenty feet (20') wide shall be provided to the rear or side of all lots to be used for commercial or industrial uses. Alleys may be



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required for apartment or multi-family subdivisions. Deal end alleys shall not be allowed.

- D. Utilities. All utilities needed to serve the uses and population within the subdivision and the planned service area shall be provided by the applicant.
- E. Street Name Signs. The sign standards with street name signs shall be provided at each intersection by the subdivider.
- F. Water, Sewer Lines. For subdivisions within the Village limits, the subdivider shall supply and install all water lines and sewer lines of approved weight and quality within the subdivision in accordance with Village standards, and also outside of the subdivision a sufficient distance to connect with the Village water and sewer systems, and to furnish and install approved weight and quality valves, fire hydrants, manholes, manhole rings and covers with sewer stub outs and all appurtenances to the water and sewer systems; and lift stations wherever necessary.

### **SECTION 20-4. REPAIRS.**

Repairs; Replacements. The subdivider shall be responsible for all repairs to his/her construction work and the replacement of defective material or workmanship on public property which may become apparent for a period of one year after the work has been completed and accepted by the Village.

### **SECTION 20-5. RESERVED.**

**CHAPTER 21**  
**MOBILE/MANUFACTURED HOME SPECIFICATIONS**

**SECTION 21-1. DEFINITION**

A mobile or manufacture home means a movable or portable housing structure for human occupancy exceeding either a width of eight feet (8') or a length of forty feet (40'), constructed to be towed on its own chassis and designed to be installed with or without permanent foundation. (Section 7-9-3(G) NMSA 1978.)

**SECTION 21-2. REQUIREMENTS**

Any mobile or manufactured home which is placed within the corporate limits of Melrose, New Mexico, either temporarily or permanently, shall be subject to the following requirement:

- A. Each mobile home or manufactured home must have an assessed valuation of a least \$10,000.00 as determined by the Curry County Assessor's Office, and maintained to that value. Said assessment must be obtained within thirty (30) days of the mobile home or manufactured home being located within the corporate limits of Melrose, New Mexico;
- B. Each mobile home or manufactured home must be newer than 1976;
- C. Each mobile home or manufactured home shall be fully and completely skirted and anchored within thirty (30) days of being located within the corporate limits of Melrose, New Mexico;
- D. Only one mobile home or manufactured home is allowed per 7000 square feet of lot, and each shall have its own utility connections.
- E. No utilities will be available to any mobile home or manufactured home until all provisions of this ordinance and all state codes are met.

**SECTION 21-3. GRANDFATHER CLAUSE**

This ordinance shall only apply to mobile home or manufactured homes being moved into the corporate limits of Melrose, New Mexico, or being moved from one place to another within the corporate limits of Melrose, New Mexico.

**SECTION 21-4. PENALTIES**

Any persons, firm, or corporation violating any of the provisions of this ordinance shall be subject to citation into Melrose Municipal Court, the judgement of that court, and of a fine of up to five hundred dollars (\$500.00).

Should any part of this ordinance be held invalid for any reason, the remainder thereof shall not be affected and shall remain in full force and effect.

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**SECTION 21-5. RESERVED.**

**CHAPTER 22**  
**ECONOMIC DEVELOPMENT PLANNING**

**SECTION 1.**

1.1 This Ordinance may be cited as the "Economic Development Plan Ordinance." It is the purpose of this Ordinance to implement the New Mexico Local Economic Development Act, Section 5-10-1, et. seq., NMSA 2013, as amended and the 1994 constitutional amendment to Article 9, Section 14, of the Constitution of New Mexico to allow public support economic development to foster, promote and enhance local economic development efforts as defined herein while continuing to protect against the unauthorized use of public money and other public resources. This Act also allows municipalities and counties to enter into joint powers Agreements to plan and support regional economic development projects.

**SECTION 2. AUTHORITY**

2.1 The Economic Development Plan Ordinance is enacted pursuant to the statutory authority conferred upon municipalities to allow public support of economic development (N.M. Stat. Ann. Section 5-10-1 through Section 5-10-13-1978). This Ordinance is adopted as part of the Village's economic development plan.

**SECTION 3. PUPOSE**

3.1 The purpose of the Economic Development Plan/Ordinance is to allow public support of economic projects to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. Further, the purpose of the Ordinance is to allow the Village to enter into one or more joint powers agreement with other local governments to plan and support regional economic development projects.

**SECTION 4. LOCAL ECONOMIC DEVELOPMENT ACT**

4.1 Local governments are allowed to provide direct or indirect assistance to qualifying business for furthering or implementing economic development plan and projects. furthermore, local and regional governments have the authority to contribute assets to development projects: however, the imposition of a tax must be approved by the voters in referendum.

4.2 Goal: To develop a plan to create a workforce, mixed residential and affordable housing within the Village and primarily in the Main Street area.

A. Develop a strategy to revitalize the buildings and residential or mixed-use venues within the Village and primarily the downtown and Main Street areas of the Village;

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- B. To retain and increase local employment base;
- C. Hold community forums, or public hearings, to discuss the public's Willingness to vote for the approval of the use of Gross Receipts Taxes, or other local funding to be used for such purposes, and receive citizen input;
  - 1. Identify all funding sources, including statutory bonds, grants, State or private partnership funding or other sources which may be used in financing such projects, and identify and enact all Ordinances as allowed by law to procure such bonds, grants or funding.
- D. Develop a policy to identify and monitor, and establish a committee to focus on locating funding in assisting developers in opening businesses in the Main Street and adjacent areas.
- E. Develop a strategy for future economic development.
- F. Continue local business retention and expansion program efforts.
- G. Continue communities and transition efforts.
- H. Recruit business and industry.
- I. Target marketing effort to various businesses and entities including but not limited to agricultural, arts and cultural purposes and retail businesses.

4.3 Economic development efforts are focused on enhancing citizens quality of life by focusing upon new or expanding businesses to diversify the Village/Curry County economy.

- A. Anticipated impact on local economic growth.
- B. Anticipated impact on previously established social, recreational and economic goals.
- C. Village may consider both a revised cost benefit analysis format, and methodology, when considering an application which relates primarily to redevelopment.
- D. Cost benefit analysis demonstrating why providing direct or indirect economic development assistance would further the goals of:
  - 1. Creating new business, mixed use or affordable housing.
  - 2. Revitalizing or redeveloping vacant or abandoned buildings within the downtown or Main Street areas of the Village of Melrose.

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### 4.4 Criteria to determine to eligibility for funding:

A. All applicants, or prospective businesses seeking funding from the Village shall provide the following information with the application submitted:

1. Section 8.2 of the Village of Melrose Code shall be amended to include the following additional minimum benefits required from a qualified entity:

a. Projects which would result in amelioration and restoration of blighted areas and/or which redevelop vacant or abandoned buildings and/or create workforce mixed use within the downtown or Main Street areas of the Village of Melrose.

b. Projects which would result in the overall benefit to the Village of Melrose by the development of commercial areas as the same may apply to quality-of-life issues, economic development, and/or economic spinoff from the construction of the same.

### 4.5 Procedures for approving funding:

A. The Village revenues dedicated or pledged for funding or financing of economic development projects under this Ordinance shall be deposited in a separate account. These accounts shall be subject to an annual independent audit.

### 4.6 Project Participation Agreement; Duties and Requirements:

1. Prior to funding, any qualifying entity shall enter into a written Agreement with the Village of Melrose. Said agreement shall include a substantive contribution from the qualifying entity for each economic development project. Public support provided for an economic development project shall be in exchange for a substantive contribution from the qualifying entity. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property, or other things or service of value for the expansion of the Village economy.

2. A qualifying entity shall provide security to the Village of Melrose and/or any other New Mexico governmental entity providing public support for the economic development project. The security shall secure the qualifying entity's obligations based on terms stated in the project participation agreement and shall reflect the amount of public support provided to the qualifying entity and the substantive contribution expected from the qualifying entity.

3. If a qualifying entity fails to perform its substantive contributions, the Village of Melrose shall enforce the project participation agreement to recover that portion of the public support for which the qualifying

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entity failed to provide a substantive contribution. The recovery shall be proportional to the failed performance of the substantive contribution and shall take into account all previous substantive contributions for the economic development project performed by the qualifying entity, based on the terms stated in the project participation agreement. The project participation agreement for an economic development project that uses public support provided by the State shall include a recapture agreement for the State.

- B. The project participation agreement, at a minimum, shall set out:
1. The contributions to be made by each party to the participation agreement;
  2. The security provided to the Village of Melrose that provides public Support for an economic development project by the qualifying entity in the form of a lien, mortgage or other indenture and the pledge of the qualifying business' financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement;
  3. A schedule for project development and completion, including measurable goals and time limits for those goals; and,
  4. Provisions for performance review and actions to be taken upon determination that project performance is unsatisfactory.
  5. It is in the public interest for the Village Council of the Village of Melrose, New Mexico, to afford all reasonable assistance which is permitted by the authority vested in the Village Council, to assist the citizens of the Village, and its surrounding area to obtain new commercial, recreational/quality of life and workforce, mixed residential and affordable housing projects and facilities. This assistance is to benefit the public and the Village and the surrounding area by affording and/or maintaining employment opportunities, retaining and creating business opportunities, providing quality of life measures to the residents of the Village in providing affordable workforce housing, by furnishing new means of income and in general, by improving the economic and socio-economic environment of Village.
4. 7 Public Safe Guards:
- A. All applicants for economic development projects requesting economic assistance from the Village of Melrose shall be reviewed by the review committee. This review shall focus on environmental and community impacts regarding proposed projects. Any qualifying entity seeking assistance shall prepare and make available a job training and career development plan for their employees, where applicable, address the economic impact the project will or may have on the Village of Melrose, where applicable, and/or address the quality-of-life benefits and impact that the project will or may have on the Village of Melrose.

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B. All applicants for economic development projects requesting economic assistance from the Village of Melrose shall clearly demonstrate the benefits, which will accrue to the Village of Melrose as a result of the donation of public resources. The Village has considerable flexibility in determining what is considered as adequate benefits. All applicants shall clearly demonstrate how their proposed project would make a substantive contribution or provide a substantive benefit to the Village of Melrose. The contribution shall be a value as recognized by the Village of Melrose in this economic development plan and may be paid in money, in-kind services, jobs, expanded tax base, improved quality of life, including recreational/athletic activities, workforce housing, property or other things or services of value for the expansion or improvement of the economy. The Village retains flexibility in defining the "substantive contributions". Assistance in providing affordable housing to its employees of the community at large may also be qualified. Determination of what constitutes an acceptable contribution for a given project shall be the discretion of the review committee.

C. Verification of the fact that the project will serve the public benefits of the citizens of the Village of Melrose, by providing its citizens with job opportunities, a source of additional income, retaining and improving businesses, lead to economic development and/or address the social needs and goals of the Village of Melrose, including but not limited to workforce housing, recreational/athletic events.

### 4.8 Targeted Business and Industry:

A. Economic development efforts are focused on enhancing citizens quality of life by focusing upon new or expanding businesses, (including recreational activities), and/or industries which enhance these sectors, and other light to moderately heavy industry, to diversify the Village of Melrose/Curry County economy.

B. The Village may consider both a revised cost benefit analysis format, and methodology, when considering an application which relates primarily to a family oriented recreational business or activity designed to enhance the citizens' quality of life, in providing recreational outlets and activities.

C. The Village may take the anticipated impact such business will have in reducing the "economic leakage" of monies spent by citizens on similar recreational activities in other communities, into account as a positive value/or multiplier, to be used in calculating the dollars which must be recouped in the Village, as a result of such donation.

D. The demonstrable reduction of economic leakage to other communities,



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which results from the creation of local recreational businesses which are shown to assist in keeping local dollars spent, and circulated, locally.

### **SECTION 5. DEFINITIONS AS USED IN THE ECONOMIC DEVELOPMENT PLAN ORDINANCE**

5.1 Economic development project: means the provision of direct or indirect land, buildings or other infrastructure; public works improvements essential to the location assistance to a qualifying business and include the purchase, lease, grant or construction, reconstruction, improvement or other acquisition or conveyance of expansion of a qualifying business; and payments for professional services contracts necessary for local or regional governments to implement a plan or project. The provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improve, mentor other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity.

5.2 Qualifying entity: means an existing or proposed corporation, limited liability company, partnership, joint venture, syndicate, association or another person that is one or combination of two or more of the following:

- A. An industry for manufacturing, processing, or assembling of any agricultural or manufactured products;
- B. A commercial enterprise for storing, warehousing, distributing, or selling products of agriculture, mining or industry, but other than provided in Paragraph (D) of this subsection, not including any enterprise for sale of goods or commodities at retail or for the distribution to the public of electricity, gas, water, or telephone or other services commonly classified as public utilities;
- C. A business in which all or part of the activities of the business involves the supplying of services to the general public or to government agencies or to a specific industry or customer, but: other than provided in Paragraph (D) of this subsection, not including business primarily engaged in the sale of

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goods or commodities at retail;

D. A telecommunications sales enterprise that makes the majority of its sales to persons outside of New Mexico.

E. A facility for the direct sales by growers of agricultural products, commonly known as farmers' markets; or

F. Arts and cultural districts and cultural facilities or retail business.

5.3 Project participation agreement: means an agreement between a qualifying entity and the Village whereby the Village provides assistance to an economic development project in exchange for the benefits received as set forth in this section.

5.4 Melrose Village Council or Village Council: means the Governing Body of the Village of Melrose, New Mexico.

### **SECTION 6. ECONOMIC DEVELOPMENT PLAN**

6.1 The Village, after approval of the Village Council, may assist economic development projects in any legally permissible manner including but not limited to provisions of land, buildings and infrastructure provided that all the requirements of this Ordinance are met. The Village may provide land, buildings or infrastructure it already owns, or it may build, purchase or lease the facilities needed for an economic development project. The Village at its discretion may bear the full cost or contribute a portion of the costs including the waiver of applicable fees. The Village, at its discretion, may also contribute to the payment of costs for professional service contracts such as industry feasibility studies and planning and design services needed to implement a project.

6.2 The Village Council may consider offering all forms of assistance allowed under this Ordinance and any other legally permissible forms of assistance; however, this does not establish any obligation on the Village's part to offer any specific type or level of assistance.

6.3 It is the purpose of this article to implement the New Mexico Local Economic Development Act, Section 15-5A-1 through 15-5A-17 et seq., N.M.S.A. 2013, as amended and the 1994 constitutional amendment to Article 9, Section 14, of the Constitution of New Mexico to allow public support of economic development to foster, promote and enhance local economic development efforts as defined herein while continuing to protect against the unauthorized use of public money and other public resources. This Act also allows municipalities and counties to enter into joint powers agreements to plan and support regional economic development projects.

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### **SECTION 7. ECONOMIC DEVELOPMENT COUNCIL OF THE VILLAGE OF MELROSE**

7.1 The Village Council assigns the Melrose Economic Development Review Board, which will consist of the Village Mayor, one Village Councilor, two people from the Melrose business community, one citizen of Village and any other member as appointed by the Mayor and approved by the Melrose Village Council. The following responsibilities with regard to the economic development plan for the Village of Melrose:

- A. Reviewing and making recommendations to the governing body on Applications for assistance for economic development projects and
- B. Reviewing and making recommendations to the governing body on Applications for revenue bonds.

7.2 The Mayor shall have an ad hoc membership and serve as administrative support and information gathering. The Village Council reserves the right to add, change or modify any members or ad hoc members to the review board.

### **SECTION 8. APPLICATION REQUIREMENTS**

8.1 Any qualifying entity meeting the definition set forth in Subsection 5.2 may propose an economic development project to the Village. Meeting the definition of a qualifying entity does not create any obligation on the part of the Village of Melrose.

8.2 Applications from qualifying entities shall be submitted to the Village of Melrose on forms provided by the Village.

8.3 Applications shall contain the following information for business applicants.

- A. Identification information:
  - 1) Complete name and address of entity;
  - 2) Incorporation papers with by-laws;
  - 3) List of Board of Directors and Executive Director, with addresses, and resumes of all Directors and Officers.
- B. Evidence of financial solvency (personal statement of principles):
  - 1) Financial statement (income statement and balance sheets) for the past three years;
  - 2) Federal tax number, New Mexico State Taxation and Revenue number and business license;
  - 3) Projected income statement for at least three years.

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C. Evidence of organizational capacity:

- 1) Brief history of the entity;
- 2) Organizational chart of the entity;
- 3) Business plans for the entity and proposed project (shall include pro-forma cash flow analysis).

D. The project participation agreement and any other pertinent information will be forwarded to the governing body for final consideration at a public meeting.

### **SECTION 9. APPLICABLE REVIEW CRITERIA**

9.1 Applications for economic development projects requesting economic assistance from the Village, which meet the policies and objectives of the Village's Economic Development Plan, shall receive priority. Examples include, but are not limited to:

- A) Manufacturing firms (including intellectual property such as computer software);
- B) Projects, which enhance the exporting capacity of companies and/or provide goods and services, which currently have to be imported into Melrose;
- C) Private companies seeking to build, expand or relocate facilities;
- D) Private companies which provide facilities or services which enhance the ability of Melrose businesses to operate;
- E) Organizations, which assist business start-ups or bring small companies together to increase their competitive abilities. This must involve a tangible project, which will create jobs and promote an industry. Examples include, but are not limited to:
  - 1) Business incubators;
  - 2) Art incubators or coalition (e.g., a performing arts coalition seeking to construct rehearsal or performance facilities);
  - 3) Public markets for farmers, gardeners, crafts. etc.; and,
  - 4) Organizations which foster economic development by promoting work force development efforts such as apprenticeships or other job training programs.
- F) Projects in industry clusters listed above are particularly encouraged but others are eligible to apply as well. The intention is to retain flexibility in the use of incentives; and,
- G) Qualifying entities with existing contracts or projects with the County when this plan is adopted may propose a restructuring of their projects as an economic development project.

9.2 All applications for economic development projects requesting economic assistance from the Village shall submit a cost benefit analysis. Preparing a cost

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benefit analysis shall be the responsibility of the applicant. The Village retains the right to specify a format and methodology for the cost-benefit analysis. The Melrose Village Council shall review and approve the methodology used. The source and rationale for any multiplier effects shall be identified. The cost-benefit analysis shall show that the Village will recoup the value of its donation within a period of ten years. The analysis shall address the following:

A) The number and type of jobs to be created, both temporary construction jobs and permanent jobs (by New Mexico Department of Labor job category); and,

B) Pay scale of jobs; and,

C) Determination of which jobs are expected to be filled locally and which will be filled by transfers from other facilities or recruited from outside the Melrose area; and,

D) Total payroll expected at start-up and after one year; and,

E) Anticipated impact on local tax base; and,

F) Anticipated impact on local school systems.

9.3 All applicants for economic development projects requesting economic assistance from the Village shall require the same review required of revenue bond applications. This review shall focus on environmental and community impacts of proposed projects. Projects shall demonstrate a strong commitment to providing career opportunities for Village area residents. Cultural impacts of projects shall also be considered.

A. Any qualifying entity seeking assistance shall prepare and make available a job training and career development plan for their employees.

B. All applicants for economic development projects requesting economic assistance from the Village shall clearly demonstrate the benefits, which will accrue to the community as a result of the donation of public resources. The Village has considerable flexibility in determining what is considered as adequate benefits. Benefits such as providing components or production capabilities, which enhance a targeted industry cluster, or addressing critical deficiencies in regional economy, may be recognized. The benefits claimed of any proposal will receive careful scrutiny. However, it is the intent of this Ordinance to be flexible in the evaluation of these benefits, and to recognize the qualitative as well as quantitative impact of a proposal.

C. All applicants for economic development projects requesting assistance from the Village shall clearly demonstrate how the qualifying entity is making a substantive contribution. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or

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service of value for the expansion or improvement of the economy. The Village retains flexibility in defining the "substantive contributions". The benefits identified in the previous paragraphs may be accepted as adequate contributions on their own. or as cash donations may be required. Assistance in providing affordable housing to its employees or the community at large may also qualify. Determination of what constitutes an acceptable contribution for a given project shall be at the discretion of the governing body.

### **SECTION 10. PUBLIC SAFEGUARDS**

10.1 All economic development projects receiving assistance from the Village shall be subject to an annual performance review conducted by the Melrose Economic Development Board. This review shall evaluate whether the project is attaining the goals and objectives set forth in the project participation agreement. This review shall be presented to the governing body for their consideration. The Village Council at a public hearing may terminate assistance to the economic development project by provisions set forth in the agreement, which terminates the agreement and specifies the disposition of all assets and obligations of the project.

10.2 The Village shall retain a security interest, which shall be specified in the project participation agreement. The type of security given shall depend upon the type of economic development project and assistance provided by the Village. Types of security may include, but are not limited to:

- A) Letter of credit in the Village's name;
- B) Performance bond equal to the Village's contribution;
- C) A mortgage or lien on the property or equipment;
- D) Pro-rated reimbursement of donation if company reduces work force or leaves the community before the term agreed to; and,
- E) Other security agreeable to both parties.

10.3 Should a qualifying entity move, sell, lease or transfer a majority interest in the economic development project before the expiration of the project participation agreement, the Village retains the right to deny any and all assignments, sales, leases or transfers of any interests in the economic development project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity and that the terms of the agreement will be satisfied by the transferee, assignee or lessee. At its discretion, the Village may choose to deny said assignment, lease or transfer or may negotiate a new agreement with the new operator, or the Village may reclaim the facility and enter into an agreement with the new qualifying entity.

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10.4 Any qualifying entity seeking assistance from public resources shall commit to operate in accordance with its project participation agreement for the duration of the Project Participation Agreement.

### **SECTION 11. PROJECT PARTICIPATION AGREEMENT**

11.1 The qualifying entity shall prepare with the Village a project participation agreement. This agreement is the formal document, which states the contribution and obligation of all parties in the economic development project. The agreement must state the following items:

- A) The economic development goals of the project; and,
- B) The contribution of the Village and the qualifying entity; and,
- C) The specific measurable objectives upon which the performance review will be read; and,
- D) A schedule for project development; and,
- E) The security being offered for the investment; and,
- F) The procedures by which a project may be terminated and the Village's investment recovered; and,
- G) The time period for which the Village shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the Village shall relinquish interest in and oversight of the project.

11.2 Each project participation agreement shall be subject to review and approval by the Village Council at a public hearing.

### **SECTION 12. PROJECT MONIES**

All project monies shall be kept in a separate account by the entity and the Village, with such account clearly identified. These accounts shall be subject to an annual independent audit.

### **SECTION 13. TERMINATION**

The Village Council may terminate this Ordinance and the Village's Economic Development Plan and any or all project participation agreements undertaken under its authority. Termination shall be by Ordinance at a public hearing or in accordance with the terms of the Project Participation Agreement. If an Ordinance or a Project Participation Agreement is terminated, all contract provisions of the Project Participation Agreement regarding termination shall be satisfied. Upon termination of the

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Ordinance or any Project Participation Agreement, any Village monies remaining in the project accounts shall be transferred to the Village's general fund.

### **SECTION 14. JOINT REGIONAL PROJECTS**

The Village may engage in Economic Development Projects involving one or more other government entities for projects, which encompass more than one municipality. In such instances, the relevant governing bodies shall adopt a Joint Powers Agreement. This Agreement will establish the application criteria and the terms for all Project Participation Agreements. Criteria established under a Joint Powers Agreement shall be consistent with the provisions of this Ordinance.

### **SECTION 15. RESERVED**