

Village of Melrose

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.

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.

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,

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-estrays dog or cat does not have an affixed rabies tag 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.

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.

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, overdrive 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.

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.

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.

SECTION 6-24. ESTRAYS.

In regard to any estray 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;

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.

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.

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.

The fee for the redemption of any animal impounded under the provisions of this article will be five dollars (\$5.00) per day. 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 the animal to the pound in Clovis or another city, the owner or custodian of such animal shall pay the fees imposed by that pound.

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.

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.

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.

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.

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.

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

livestock is kept will be at least sixty (60) feet, at its nearest point, from the 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 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.

- 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.

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:

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.

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 asentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and the State Dangerous Dog Act,