

ARTICLE 4. NUISANCES, MISCONDUCT, AND COMMON OFFENSES

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§ 7.4.1 COMMON OFFENSES ENUMERATED

The following offenses are hereby declared to be nuisances:

- (A)** Disturbing the peace;
- (B)** Engaging in disorderly conduct;
- (C)** Fighting in public; affray;
- (D)** Drunkenness in public;
- (E)** Assault;
- (F)** Assault and battery;
- (G)** Vagrancy;
- (H)** Using scandalous or obscene language in public;
- (I)** Petty larceny (less than one hundred dollars (\$100.00));
- (J)** Resisting, interfering with or assaulting a Village Marshal, Deputy Marshal, Police Officer, Building Inspector, Fire Chief, Mayor, Trustee, Judge or other Village Official, when in execution of his office;
- (K)** Willful and malicious destruction of or injury to public or private property;
- (L)** Giving a false fire alarm or police call;
- (M)** Lurking around alleys or prowling about a habitation of another during the night time;
- (N)** Carrying concealed weapons;
- (O)** Discharging any firearms or air gun in the Village; provided that this Section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty;
- (P)** Trespassing on private property in person or by motor vehicle;
- (Q)** Discarding garbage, swill, cans, scrap metal, bottles, papers, ashes, refuse, carcasses, offal, trash, rubbish or any noisome, nauseous or offensive matter in or upon any public right-of-way or public park or property or private road or property of another, except in receptacles provided for public use for such purposes;
- (R)** Going in and upon private residences by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited so to do by the owner or owners, occupant or occupants of said private residences, for commercial purposes including the soliciting of orders for the sale of goods, wares or merchandise, or disposing of or peddling or hawking the same;
- (S)** Open burning of refuse, waste materials, vehicles or any other matter not permitted by § 5.1.1 *et seq.*, Fire Safety;
- (T)** Houses of prostitution;
- (U)** Maintenance of a health and safety menace.



§ 7.4.2 OFFENSES DEFINED

(A) **GENERAL.** With the exception of “health and safety menace,” the above listed offenses shall be defined and determined in accordance with the definitions and meanings given them under the Statutes of the State of New Mexico, if they are therein defined, and if not, they shall be defined and determined in accordance with the common law.

(B) **HEALTH OR SAFETY MENACE** is defined as anything injurious to health, safety, morals, or welfare and shall include, but shall not be limited to, the following:

(1) The accumulation of filth, sewage, garbage, refuse, trash, standing or stagnant water, litter rubbish, ruin, dead weeds, brush, the cotton-like substance borne by female cottonwood trees, or any waste matter whatsoever.

(2) Any plant growth which obstructs traffic visibility on highways and streets.

(3) Excessive noise is such noise as is measured as greater than fifty (50) decibels at the property line of the subject property in the daytime or greater than forty (40) decibels from the hours of 10:00 p.m. until 6:00 a.m. These provisions shall not apply to any noise from livestock or agricultural activities, but shall apply to noise from domesticated animals or household pets.

(4) Individual variances from the limitations prescribed in this Article may be granted by the Village of Los Ranchos by use of a temporary permit which allows non-compliance with the limitations prescribed in this Section for the purposes of amplified sound activities of short duration. The Mayor may designate one or more employees of the Village of Los Ranchos to issue such temporary permits. The issuance of such permits will be only for a time period ending at 10:00 p.m. Permits shall be granted upon application, at no cost to the applicant, provided an initial investigation assures that the permit will not result in any condition injurious to health or safety. The following factors shall be considered in the granting of such permit in order to determine whether granting the permit will result in a condition injurious to health and safety:

(a) Distance of proposed activities from other residences;

(b) Number of amplification devices to be used in the proposed activities;

(c) Anticipated direction of the amplification devices;

(d) Anticipated length of the proposed activities;

(e) Whether the activity will be held within or without a structure;

(f) Any other factors deemed relevant to the permit by the Village of Los Ranchos.

Any permit issued shall specify a place, duration and any restrictions appropriate to the proposed site of the activities.

(5) For the purposes of this Article, livestock means cattle, llama, buffalo, horses, mules, donkeys, burros, sheep, goats, rabbits, poultry, ostriches, or emu. Other domestic animals useful to man not specifically included herein may be classified as livestock upon application to the Village with sufficient evidence to allow the Village to determine that said animal is being used for agricultural purposes.

(6) Agricultural use means all methods of production and management of livestock, crops, vegetation and soil. This includes, but is not limited to raising, harvesting and marketing. It also includes, but is not limited to, the activities of feeding,



housing and maintaining livestock. It also includes maintenance of any water distribution or agricultural system designed to provide water for agricultural activities.

(7) No person shall allow a dog in his/her possession or control to persistently or continuously bark or howl or otherwise to disturb the peace and quiet of the inhabitants of the Village.

(8) Any noise exceeding the decibel level set forth herein at the property line of the subject property shall be deemed to be a prima facie evidence of a violation of the provisions of this Article. The provisions of this Subsection shall not apply to livestock.

(9) Violations of this Article shall be prosecuted in the Village Municipal Court or any other court of competent jurisdiction. On conviction of a violation of this Article, the Village Municipal Court may impose fines or imprisonment up to the maximum allowed by New Mexico law, but no greater than imprisonment of one hundred seventy-nine (179) days or a fine of five hundred dollars (\$500.00).

§ 7.4.3 HEALTH OR SAFETY MENACE PROHIBITED

(A) No person shall cause or knowingly permit real property within the Village to become or remain in a condition constituting a health or safety menace.

(B) The Mayor of the Village, when he determines a health or safety menace exists, may notify in writing the owner of the real property involved of the existence of the health and safety menace and request the owner to abate or commence abatement of such condition within ten (10) days. Notice shall be by registered mail, addressed to the owner at his last known address. If the property owner does not comply with the request for abatement of a health or safety menace the Village may, at the discretion of the Mayor, in addition to the other remedies provided for by ordinance, file a suit for a mandatory injunction in any court of competent jurisdiction to compel the owner to comply with such request.

(C) When an immediate abatement of a health and safety menace is necessary for the protection of health and safety, the Mayor or the Mayor's designee may file suit for a mandatory injunction without first giving notice.

§ 7.4.4 ACTION FOLLOWING NONCOMPLIANCE

If an owner fails to comply with a valid injunction, the Mayor or the Mayor's designee may abate the health or safety menace. For the purposes of this Section, the owner shall be deemed to have granted permission to the Village, its agents, and its employees to enter upon his property.

§ 7.4.5 COSTS OF ABATEMENT

When the Village has affected the abatement of the health or safety menace or has paid for its abatement, the actual cost thereof, plus accrued interest at the interest rate authorized for money judgments by New Mexico law from the date of the completion of the work, shall be paid by the owner of the said real property to the Village. If not so paid within thirty (30) days from the request for payment by the Village, the Mayor may file a suit against the owner of such property in any court of competent jurisdiction seeking judgment for the amount required by this Section to be paid by the owner.

Ordinance and State Law References regarding Chapter 7, Article 4 (f/k/a Chapter 19):

Ordinance #3, May 27, 1959;

Ordinance #21 replaced previous section 1(O) (motor vehicle traffic violations), January 5, 1972;



Ordinance #22 added section 1(T), November 1, 1972;
Ordinance #24, November 1, 1972;
Ordinance #33, March 3, 1976, codified in 1996 in Chapters 10 and 19;
Ordinance #85, May 10, 1989, replacing Ordinance No. 24;
Ordinance #134 enacted Feb. 14, 1996, codified Ordinances 3, 21, 22, 33 and 85 into Chapter 19, with modifications;
Ordinance #166, October 10, 2001.

§ 3-17-1 NMSA 1978;
Dangerous buildings, § 3-18-5 NMSA 1978;
Industrial nuisances, § 3-18-13 NMSA;
Power to regulate nuisances & offenses, § 3-18-17 NMSA 1978;
NMSA 1978, Article 8 Nuisances.