

Chapter 30. Criminal Offenses

Article 7. Weapons and Explosives

**30-7-1. "Carrying a deadly weapon"** "Carrying a deadly weapon" means being armed with a deadly weapon by having it on the person, or in close proximity thereto, so that the weapon is readily accessible for use.

**30-7-2. Unlawful carrying of a deadly weapon**

**A.** Unlawful carrying of a deadly weapon consists of carrying a concealed loaded firearm or any other type of deadly weapon anywhere, except in the following cases:

(1) in the person's residence or on real property belonging to him as owner, lessee, tenant or licensee;

(2) in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property;

(3) by a peace officer in accordance with the policies of his law enforcement agency who is certified pursuant to the Law Enforcement Training Act [29-7-1 NMSA 1978];

(4) by a peace officer in accordance with the policies of his law enforcement agency who is employed on a temporary basis by that agency and who has successfully completed a course of firearms instruction prescribed by the New Mexico law enforcement academy or provided by a certified firearms instructor who is employed on a permanent basis by a law enforcement agency; or

(5) by a person in possession of a valid concealed handgun license issued to him by the department of public safety pursuant to the provisions of the Concealed Handgun Carry Act [29-19-1 NMSA 1978].

**B.** Nothing in this section shall be construed to prevent the carrying of any unloaded firearm.

**C.** Whoever commits unlawful carrying of a deadly weapon is guilty of a petty misdemeanor.

**30-7-2.1. Unlawful carrying of a deadly weapon on school premises**

**A.** Unlawful carrying of a deadly weapon on school premises consists of carrying a deadly weapon on school premises except by:

(1) a peace officer;

(2) school security personnel;

(3) a student, instructor or other school-authorized personnel engaged in army, navy, marine corps or air force reserve officer training corps programs or state-authorized hunter safety training instruction;

(4) a person conducting or participating in a school-approved program, class or other activity involving the carrying of a deadly weapon; or

(5) a person older than nineteen years of age on school premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.

**B.** As used in this section, "school premises" means:

(1) the buildings and grounds, including playgrounds, playing fields and parking areas and any school bus of any public elementary, secondary, junior high or high school in or on which school or school-related activities are being operated under the supervision of a local school board; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and sanctioned activities are being performed.

**C.** Whoever commits unlawful carrying of a deadly weapon on school premises is guilty of a fourth degree felony.

**30-7-2.2. Unlawful possession of a handgun by a person; exceptions; penalty** **A.** Unlawful possession of a handgun by a person consists of a person knowingly having a handgun in his possession or knowingly transporting a handgun, except when the person is:

(1) in attendance at a hunter's safety course or a handgun safety course;

(2) engaging in the use of a handgun for target shooting at an established range authorized by the governing body of the jurisdiction in which the range is located or in an area where the discharge of a handgun without legal justification is not prohibited by law;

(3) engaging in an organized competition involving the use of a handgun;

(4) participating in or practicing for a performance by an organization that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended or renumbered;

(5) legal hunting or trapping activities;

(6) traveling, with an unloaded handgun in his possession, to or from an activity described in Paragraph (1), (2), (3), (4) or (5) of this subsection; or

(7) on real property under the control of the person's parent, grandparent or legal guardian and the person is being supervised by his parent, grandparent or legal guardian.

**B.** A person who commits unlawful possession of a handgun by a person is guilty of a misdemeanor.

**C.** As used in this section:

(1) "person" means an individual who is less than nineteen years old; and

(2) "handgun" means a loaded or unloaded pistol, revolver or firearm which will or is designed to or may readily be converted to expel a projectile by the action of an explosion and the barrel length of which, not including a revolving, detachable or magazine breech, does not exceed twelve inches.

**30-7-2.3. Seizure and forfeiture of a handgun possessed or transported by a person in violation of unlawful possession of a handgun by a person**

**A.** A handgun is subject to seizure and forfeiture by a law enforcement agency when the handgun is possessed or transported by a person in violation of the offense of unlawful possession of a handgun by a person.

**B.** The provisions of the Forfeiture Act [31-27-1 NMSA 1978] apply to the seizure, forfeiture and disposal of a handgun subject to forfeiture pursuant to Subsection A of this section.

**30-7-2.4 Unlawful carrying of a firearm on university premises; notice; penalty**

**A.** Unlawful carrying of a firearm on university premises consists of carrying a firearm on university premises except by:

(1) a peace officer;

(2) university security personnel;

(3) a student, instructor or other university-authorized personnel who are engaged in army, navy, marine corps or air force reserve officer training corps programs or a state-authorized hunter safety training program;

(4) a person conducting or participating in a university-approved program, class or other activity involving the carrying of a firearm; or

(5) a person older than nineteen years of age on university premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.

**B.** A university shall conspicuously post notices on university premises that state that it is unlawful to carry a firearm on university premises.

**C.** As used in this section:

(1) "university" means a baccalaureate degree-granting post-secondary educational institution, a community college, a branch community college, a technical-vocational institute and an area vocational school; and

(2) "university premises" means:

(a) the buildings and grounds of a university, including playing fields and parking areas of a university, in or on which university or university-related activities are conducted; or

(b) any other public buildings or grounds, including playing fields and parking areas that are not university property, in or on which university-related and sanctioned activities are performed.

**D.** Whoever commits unlawful carrying of a firearm on university premises is guilty of a petty misdemeanor.

**30-7-4. Negligent use of a deadly weapon**

**A.** Negligent use of a deadly weapon consists of: ...

(2) carrying a firearm while under the influence of an intoxicant or narcotic;

(3) endangering the safety of another by handling or using a firearm or other deadly weapon in a negligent manner; or ...

**B.** The provisions of Paragraphs (1), (3) and (4) of Subsection A of this section shall not apply to a peace officer or other public employee who is required or authorized by law to carry or use a firearm in the course of his employment and who carries, handles, uses or discharges a firearm while lawfully engaged in carrying out the duties of his office or employment.

**C.** The exceptions from criminal liability provided for in Subsection B of this section shall not preclude or affect civil liability for the same conduct.

Whoever commits negligent use of a deadly weapon is guilty of a petty misdemeanor.

**30-7-5. Dangerous use of explosives**

Dangerous use of explosives consists of maliciously exploding, attempting to explode or placing any explosive with the intent to injure, intimidate or terrify another, or to damage another's property.

Whoever commits dangerous use of explosives is guilty of a third degree felony.

**30-7-6. Negligent use of explosives**

Negligent use of explosives consists of negligently exploding, attempting to explode or placing any explosive in such a manner as to result in injury to another or to property of another, or in the probability of such injury.

Whoever commits negligent use of explosives is guilty of a petty misdemeanor.

**30-7-7. Unlawful sale, possession or transportation of explosives** Unlawful sale, possession or transportation of explosives consists of:

**A.** knowingly selling or possessing any explosive or causing such explosive to be transported without having plainly marked in large letters in a conspicuous place on the box or package containing such explosive the name and explosive character thereof and the date of manufacture. For the purpose of this subsection, the term "explosive" is as defined in Section 2 [30-7-18 NMSA 1978] of the Explosives Act, but shall not include:

(1) explosive materials in medicine and medicinal agents in the forms prescribed by the official United States pharmacopoeia or the national formulary;

(2) small arms ammunition and components thereof;

(3) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches and friction primers intended to be used solely for sporting, recreational or cultural purposes as defined in Section 921(a)(16) [§ 921(a)(4)] of Title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in Section 921(a)(4) [§ 921(a)(16)] of Title 18 of the United States Code; or

(4) explosive materials transported in compliance with the regulations of the United States department of transportation and agencies thereof; or

**B.** knowingly transporting or taking any explosive upon or into any vehicle belonging to a common carrier transporting passengers. For the purpose of this subsection, the term "explosives" is as defined in Section 2 [30-7-18 NMSA 1978] of the Explosives Act, but shall not include:

(1) explosive materials in medicines and medicinal agents in the forms prescribed by the official United States pharmacopoeia or the national formulary;

(2) small arms ammunition or components thereof; or

(3) explosive materials transported in compliance with the regulations of the United States department of transportation and agencies thereof.

Whoever commits unlawful sale, possession or transportation of explosives as set forth in Subsection A of this section is guilty of a petty misdemeanor.

Whoever commits unlawful transportation of explosives as set forth in Subsection B of this section is guilty of a fourth degree felony.

**30-7-9. Firearms; sale and purchase** Residents of states contiguous to New Mexico may purchase firearms in New Mexico. Residents of New Mexico may purchase firearms in states contiguous to New Mexico.

**30-7-16. Firearms or destructive devices; receipt, transportation or possession by a felon; penalty**

**A.** It is unlawful for a felon to receive, transport or possess any firearm or destructive device in this state.

**B.** Any person violating the provisions of this section shall be guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].

**C.** As used in this section:

(1) "destructive device" means:

(a) any explosive, incendiary or poison gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge of more than four ounces; 4) missile having an explosive or incendiary charge of more than one-fourth ounce; 5) mine; or 6) similar device;

(b) any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell that is generally recognized as particularly suitable for sporting purposes; and

(c) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in this paragraph and from which a destructive device may be readily assembled.

The term "destructive device" does not include any device that is neither designed nor redesigned for use as a weapon or any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(2) "felon" means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving his sentence or period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence; and

(3) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

#### **30-7-18. Definitions**

As used in the Explosives Act [30-7-17 NMSA 1978]:

**A.** "explosive" means any chemical compound or mixture or device, the primary or common purpose of which is to explode and includes but is not limited to dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters; and

**B.** "explosive device" or "incendiary device" means:

(1) any explosive bomb, grenade, missile or similar device;

(2) any device or mechanism used or created to start a fire or explosion with or without a timing mechanism except cigarette lighters and matches; or

(3) any incendiary bomb or grenade, fire bomb or similar device or any device which includes a flammable liquid or compound and a wick or igniting agent composed of any material which is capable of igniting the flammable liquid or compound.

#### **30-7-19. Possession of explosives**

**A.** Possession of explosives consists of knowingly possessing, manufacturing or transporting any explosive and either intending to use the explosive in the commission of any felony or knowing or reasonably believing that another intends to use the explosive to commit any felony.

**B.** Any person who commits possession of explosives is guilty of a fourth degree felony.

**30-7-19.1. Possession of explosive device or incendiary device**

**A.** Possession of an explosive device or incendiary device consists of knowingly possessing, manufacturing or transporting any explosive device or incendiary device or complete combination of parts thereof necessary to make an explosive device or incendiary device. This subsection shall not apply to any fireworks as defined in Section 60-2C-2 NMSA 1978 or any lawfully acquired household, commercial, industrial or sporting device or compound included in the definition of explosive device or incendiary device in Section 30-7-18 NMSA 1978 that has legitimate and lawful commercial, industrial or sporting purposes or that is lawfully possessed under Section 30-7-7 NMSA 1978.

**B.** Any person who commits possession of an explosive device or incendiary device is guilty of a fourth degree felony.

## **Chapter 32a. Children's Code**

### **Article 2. Delinquency**

**32A-2-33. Child in possession of a firearm on school premises; detention; hearing**

**A.** If a public school administrator or employee has reasonable cause to believe that a child is in possession of or has been in possession of a firearm on school premises in violation of Section 30-7-2.1 NMSA 1978, the administrator or employee shall immediately report the child's actions to a law enforcement agency and the children, youth and families department.

**B.** Upon receipt of a report pursuant to Subsection A of this section, the law enforcement agency may conduct an investigation to determine if there is probable cause to believe that the child possessed a firearm on school premises.

**C.** If the law enforcement agency determines there is probable cause to believe that the child possessed a firearm on school premises, the law enforcement agency may take the child into custody and deliver the child to a detention facility licensed by the department. After the child is delivered to a detention facility, the department shall comply with the notification provisions set forth in Subsection C of Section 32A-2-10 NMSA 1978. The child shall be detained in the detention facility, pending a detention hearing pursuant to the provisions of Section 32A-2-13 NMSA 1978.

**D.** As used in this section, "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

**[Current through the Second Session and Second Special Session of the of the Forty-Ninth Legislature (2010)]**

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## **Revised Ordinances of Albuquerque**

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### **Chapter 12. Criminal Code**

**Article 2. Offenses Relating to Public Order and Safety**

**12-2-9. Negligent Use of Weapons.**

(A) Negligent use of a weapon consists of either: ...

(2) Carrying or having within one's reach or immediate grasp, a deadly weapon while under the influence of an intoxicating liquor or other drug; or

(3) Endangering the safety of another or his property by handling or using a firearm or other deadly weapon in a negligent manner; or

(4) Selling, loaning or furnishing any deadly weapon to a person with knowledge that the person is under the influence of alcohol or other drug or that the person is incompetent.

(B) **Exception for peace officers.** The provisions set forth above shall not be construed to forbid peace officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties.

**12-2-10. Unlawful Possession, Transfer or Sale of Weapons. ...**

(B) Unlawful sale of a deadly weapon consists of giving, selling, trading, bartering, or exchanging for anything of value any deadly weapon or ammunition for any firearm to any person under the age of 18 years; provided, however, that nothing herein contained shall be construed to prevent any parent or legal guardian from purchasing such a weapon or ammunition for his child or ward.

[Revised Ordinances of Albuquerque current through Ordinance 19-2009, passed June 15, 2009]

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**Las Cruces Municipal Code**

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**Chapter 16. Licenses, Taxation and Miscellaneous Business Regulations**

**Article V. Flea Markets**

**16-267. Responsibilities of vendors.** No flea market vendor shall sell, exchange, or display

for the purpose of sale or exchange any firearm, live ammunition, fresh meat, or any item of contraband as such is defined by federal or state law. ...

**Chapter 19. Offenses and Miscellaneous Provisions**

**Article III. Offenses Against Public Peace, Order and Safety**

**Division 3. Weapons**

**19-164. Prohibited use of weapons and firearms.**

(a) It shall be unlawful for any person to: ...

(4) Carry a firearm while under the influence of an intoxicant or narcotic.

(5) Endanger the safety or security of another person or his property by handling or using a firearm or other deadly weapon in a negligent manner.

[Las Cruces Municipal Code current through Ord. No. 2595, enacted November 15, 2010]