

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: GENERAL PROVISIONS

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Cross-reference:

Health and sanitation; nuisances, see Ch. 90

§ 130.01 SHORT TITLE.

This title may be cited as the Criminal Code of Tularosa.
(Ord. 89, passed 7-17-1979)

§ 130.02 LIMITATIONS ON ACTIONS.

All prosecutions for the alleged violation of this title shall be commenced within one year after the alleged violation and shall be barred thereafter.
(Ord. 89, passed 7-17-1979)

§ 130.03 JURISDICTION.

This title applies only to offenses committed within the village limits, as those limits may from time to time be established.
(Ord. 89, passed 7-17-1979)

§ 130.04 DEFINITIONS.

(A) For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANOTHER or ***OTHER***. Any other human being or legal entity, whether incorporated or unincorporated, including the United States, the State of New Mexico or any subdivision thereof.

ANYTHING OF VALUE. Any conceivable thing of the slightest value, tangible or intangible, movable or immovable; corporeal or incorporeal, public or private. The term is not necessarily synonymous with the traditional legal term property.

CHIEF OF POLICE or ***POLICE CHIEF***. The Police Chief or his or her designated representative.

CHILD. Any person under the age of 18.

COURT. The Municipal Court of the village.

HOUSE OF PROSTITUTION. Any place where prostitution or the promotion of prostitution is carried on.

LAWFUL CUSTODY OR CONFINEMENT. The holding of any person pursuant to lawful authority, including, without limitation, actual or constructive custody of prisoners temporarily outside a penal institution, reformatory, jail, prison farm or ranch.

PEACE OFFICER. Any public official or public officer vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

PERSON. Includes, but is not limited to any natural person, whether over or under 18 years of age, firm, partnership, association, corporation, company or organization of any kind.

POSSESS. Includes, but is not limited to any manner of custody, control or ownership, no matter how initiated.

PRIVATE PARTS OF THE BODY. The penis, scrotum or rectum of a male or the vagina, clitoris or rectum of a female, or pubic hair of a male or female.

PROSTITUTE. A person who engages in or offers to engage in the commission of a sex act for anything of value.

PUBLIC EMPLOYEE. Any person receiving remuneration for regular services rendered to the state or any of its political subdivisions.

PUBLIC OFFICER. Any elected or appointed officer of the state or any of its political subdivisions, whether or not he receives remuneration for his or her services.

PUBLIC PLACE. Includes, but is not limited to public dance halls, pool rooms, bars, saloons, bowling alleys, coffee houses, commercial establishments patronized by the public, city, county, state or federal buildings, streets, sidewalks, parks or alleys.

SEX ACT. The engaging in cunnilingus, buggery, pederasty, necrophilia, fellatio, bestiality, sodomy, sexual intercourse or the manipulation of the testicles or penis of a male or the vulva or clitoris of a woman by hand or any mechanical means.

SHALL. The act referred to is mandatory and not merely directory.

VILLAGE. The Village of Tularosa, New Mexico.

(B) Any other term used in this title is used in its commonly accepted meaning, except where another term has been defined elsewhere in this title.
(Ord. 89, passed 7-17-1979)

§ 130.99 PENALTY.

(A) Any person convicted of any violation, defined in this title, shall be punished by a fine of not more than \$500 or by imprisonment not exceeding 90 days, or both, unless a different specific penalty is provided.

(B) Upon conviction of a second violation of any provision in this title in addition to any other penalties, the weapon or weapons used in the second offense shall be forfeited to the village.

(C) Any fireworks, gambling devices or other equipment of any kind used in gambling and any money seized in connection with any gambling or gambling equipment shall be retained by the Police Chief until the property is disposed of by order of the Court.

(D) The Court may sentence any corporation, club, organization or unincorporated association, which has been convicted of a violation of this title, to pay a fine authorized hereby.

(E) Each day that any violation of this title shall continue shall constitute a separate offense, punishable as provided herein.

(F) It shall be unlawful to commit any act defined as a violation in this title.
(Ord. 89, passed 7-17-1979; Am. Ord. 204, passed 5-20-2003)

CHAPTER 131: OFFENSES AGAINST PROPERTY

Section

- 131.01 Injuring or tampering with vehicles
- 131.02 Criminal damage to property
- 131.03 Protection of ditches
- 131.04 Trespassing
- 131.05 Wrongful entry of public facility

§ 131.01 INJURING OR TAMPERING WITH VEHICLES.

It shall be unlawful for any person to individually or in association with one or more persons to:

(A) Purposely and without authority from the owner, start or cause to be started, the motor of any motor vehicle;

(B) Purposely and maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which they were left by the owner or driver of said motor vehicle;

(C) Purposely scratch or damage the chassis, running gear, body, sides, top covering or upholstery of a motor vehicle, without permission of the owner thereof;

(D) Purposely destroy any part of a motor vehicle or purposely cut, mash, mark or in any other way destroy or damage any part, attachment, fastening or appurtenance of a motor vehicle, without the permission of the owner thereof;

(E) Purposely drain or start the drainage of any radiator or oil tank or gas tank upon a motor vehicle without the permission of the owner thereof;

(F) Purposely puts any metallic or other substance or liquid in the radiator, carburetor, oil tank, grease cup, oilers, lamps, gas tanks or machinery of the motor vehicle with the intent to injure or damage the same or impede the working of the machinery thereof;

(G) Maliciously tighten or loosen any bracket, bolt, wire, nut, screw or other fastening on a motor vehicle; or

(H) Purposely release the brake upon a standing motor vehicle, with the intent to injure the machine. (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 131.02 CRIMINAL DAMAGE TO PROPERTY.

(A) Criminal damage to private property consists of intentionally damaging any real or personal property of another without the consent of the person lawfully in possession of the property.

(B) Criminal damage to public property consists of intentionally damaging any real or personal property of the village, county, state or United States Government, without the consent of the owner thereof.

(NMSA § 30-15-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 131.03 PROTECTION OF DITCHES.

It shall be unlawful for any person to drive any vehicle of any description across any of the ditches inside the village, except where they are crossed by streets, avenues or alleys, or in any manner which may injure the ditches.

(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 131.04 TRESPASSING.

Trespassing consists of unlawfully and with intent:

(A) Entering or remaining upon the property of another knowing that any consent to enter or remain has been denied or withdrawn by the owner or occupant; or

(B) Entering or remaining upon lands owned, operated or controlled by the state or any of its political subdivisions, knowing that consent to enter or remain is denied or withdrawn by the owner or occupant thereof.

(NMSA § 30-14-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 131.05 WRONGFUL ENTRY OF PUBLIC FACILITY.

(A) Wrongful entry of a public facility consists of knowingly entering any public facility without permission of the lawful custodian when the facility is not open to the public.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC FACILITY. Any building, structure or enclosure used for a public purpose or as a place of public gathering owned or under the control of the state or one of its political subdivisions or a religious, charitable, educational or recreational association.

(NMSA § 30-14-4) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

CHAPTER 132: OFFENSES AGAINST MORALS

Section

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FALSE USE OF PROPERTY; DECEPTION AND LARCENY**§ 132.01 CREDIT CARDS.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANYTHING OF VALUE. Includes money, goods and/or services.

CARD HOLDER. The person or organization identified on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

CREDIT CARD. Any instrument or device whether known as a credit card, credit plate, charge card or by other name issued with or without fee by an issuer for the use of the card holder in obtaining money, goods, services and/or anything of value, either on credit or in consideration of an understanding or guarantee by the issuer of the payment of a check drawn by the card holder.

EXPIRED CREDIT CARD. A credit card which shows on its face that it is outdated.

INCOMPLETE CREDIT CARD. A credit card upon which a part of the matter, other than the signature of a card holder, which an issuer requires to appear on the credit card before it can be used-by a card holder, has not been stamped, embossed, imprinted or written on.

ISSUER. The business organization or financial institution or its duly authorized agent which issues a credit card.

MERCHANT. Every person who is authorized by an issuer or a participating party to furnish money, goods, services and/or anything else of value upon presentation of a credit card by a card holder.

PARTICIPATING PARTY. A business organization or financial institution other than the issuer which acquires for value a sales slip or agreement.

REVOKED CREDIT CARD. A credit card for which the permission to use has been suspended or terminated by the issuer and notice thereof has been given to the card holder.

SALES SLIP OR AGREEMENT. Any writing evidencing a credit card transaction.
(NMSA § 30-16-25)

(B) It shall be unlawful for a person to take a credit card from the person, possession, custody or control of another without the card holder's consent, or who, with knowledge that it has been so taken, acquires or possesses a credit card with the intent to use it or to sell it, or to transfer it to a person other than the issuer or the card holder.
(NMSA § 30-16-26)

(C) It shall be unlawful for a person other than the issuer who receives or possesses a credit card that he or she knows or has reason to know to have been stolen, lost, mislaid or delivered by mistake as to the identity or address of the card holder, to retain possession thereof with the intent to use it or to transfer it to a person other than the issuer or the card holder.
(NMSA § 30-16-27)

(D) It shall be unlawful for a person other than the issuer or his or her authorized agent, with intent to defraud, transfer possession of a credit card to a person other than the person whose name appears thereon, or a person who with intent to defraud, receives possession of a credit card issued in the name of a person other than himself or herself from a person other than the issuer or his or her authorized agent.
(NMSA § 30-16-28)

(E) It shall be unlawful for any person, with intent to defraud, receive, sell or transfer to a credit card by making directly or indirectly, any false statement of a material fact, whether orally or in writing, respecting his or her identity or financial condition or that of any other person, firm or corporation.
(NMSA § 30-16-29)

(F) It shall be unlawful for any person other than a card holder or a person authorized by him or her, with intent to defraud, sign the name of another or the name of a fictitious person to a credit card or to a sales slip or agreement.
(NMSA § 30-16-32)

(G) It shall be unlawful for a person if, with intent to defraud, he or she uses, to obtain anything of value:

(1) A credit card obtained in violation of this section;

(2) A credit card which is invalid, expired or revoked;

(3) A credit card while fraudulently representing that he or she is the card holder named on the credit card, or an authorized agent or representative of the card holder named on the credit card; or

(4) A credit card issued in the name of another without the consent of the person to whom the card has been issued.

(NMSA § 30-16-33)

(H) (1) It shall be unlawful for any merchant or the employee of any merchant if, with intent to defraud, he or she furnishes or allows to be furnished anything of value upon presentation of a credit card obtained or retained in violation of this section, or fraudulently made or embossed, or fraudulently signed, or a credit card which he or she knows is invalid, expired or revoked, or a credit card presented by a person whom he or she knows is not the card holder named on the credit card or an authorized agent or representative of the card holder named on the credit card.

(2) It shall be unlawful for any merchant or the employee of any merchant if, with intent to defraud, he or she fails to furnish anything of value which he or she represents in writing to the issuer or to a participating party that he or she has furnished on a credit card or cards of the issuer.

(NMSA § 30-16-34)

(I) It shall be unlawful for any person to receive money, goods or services and/or anything else of value obtained by another person through the use of a credit card possessed in violation of this section, and who knows or has reason to believe that it was so obtained.

(NMSA § 30-16-36)

(J) For the purpose of this section, every credit card, whether valid, expired, incomplete or revoked, is presumed to have value and proof of the value is not necessary in any prosecution hereunder.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.02 EMBEZZLEMENT.

Embezzlement consists of the embezzling or converting by a person for his or her own use, anything of value with which he or she has been entrusted, with fraudulent intent to deprive the owner thereof.

(NMSA § 30-16-8) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.03 EXTORTION.

(A) Extortion consists of the communication or transmission of any threat to another by any means whatsoever with intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his or her will.

(B) Any of the following acts shall be sufficient to constitute a threat under this section:

- (1) A threat to do an unlawful injury to the person or property of the person threatened or of another;
- (2) A threat to accuse the person threatened, or another, of any crime;
- (3) A threat to expose, or impute to the person threatened or another, any deformity or disgrace;
- (4) A threat to expose any secret affecting the person threatened or another; or
- (5) A threat to kidnap the person threatened or another.

(NMSA § 30-16-9) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.04 FALSE PRETENSES.

It shall be unlawful for any person to obtain any goods, chattels or other property under false pretenses or to obtain any goods, chattels or other property or other articles or things and receive the same and depart without paying or making arrangements to pay the owner thereof.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.05 FALSELY OBTAINING SERVICES OR ACCOMMODATIONS.

Falsely obtaining services or accommodations consists of any person obtaining any service, food, entertainment or accommodations without paying therefor, and with the intent to cheat or defraud the owner or person supplying the service, food, entertainment or accommodations.

(NMSA § 30-16-16) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.06 FORGERY.

Forgery consists of:

(A) Falsely making or altering any signature to, or any part of, any writing purporting to have any legal efficacy with intent to injure or defraud; or

(B) Knowingly issuing or transferring a forged writing with intent to injure or defraud.
(NMSA § 30-16-10) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.07 FRAUD.

Fraud consists of the intentional misappropriation or taking of anything of value which belongs to another or the causing of another to change his or her position to any extent to his or her detriment by means of fraudulent conduct, practices or representations, misleading statements or misrepresentations, whether made directly or through newspapers, radios, television or circulars; provided, however, that no newspaper company, radio company or television company or any employee or agent thereof shall be deemed to have violated this section unless the company, agent or employee aided in the dissemination of the misrepresentation or misleading statement knowing it to be a misrepresentation or misleading statement.

(NMSA § 30-16-6) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.08 FRAUDULENTLY AVOIDING PAYMENT OF ADMISSION FEES.

It shall be unlawful for any person to fraudulently enter, without payment of the proper required admission fee, any theater, ballroom, concert, lecture or any other place where an admission fee is charged, with the exception of the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.09 WORTHLESS CHECKS.

(A) It is unlawful for a person to issue, in exchange for anything of value, with intent to defraud, any check, draft or order for payment of money upon any bank or other depository, knowing at the time of the issuing that the offender has insufficient funds in or credit to the bank or depository for the payment of the check, draft or order in full upon its presentation.

(B) This section does not apply for:

(1) Any check where the payee or holder knows or has been expressly notified prior to the drawing of the check or has reason to believe that the drawer did not have on deposit or to his or her credit with the drawee sufficient funds to insure payment on its presentation; or

(2) Any post-dated check.

(C) In the prosecution of offenses under this section, the following rules of evidence shall govern:

(1) If the maker or drawer of a check, payment of which is refused by the bank or depository upon which it is drawn because of no account in the name of the maker or drawer in the bank, proof of the fact that the maker or drawer had no account in the bank or depository upon which the check is drawn shall be prima facie evidence of an intent to defraud and of knowledge of insufficient funds in or credit with the bank or depository with which to pay the draft.

(2) If the maker or drawer of a check, payment of which is refused by the bank or depository upon which it is drawn because of insufficient funds or credit in the account of the maker or drawer in the bank or depository, fails, within three business days after notice to him or her that the check was not honored by the bank or depository, to pay the check in full, together with any protest fees or costs thereon, the failure shall constitute prima facie evidence of a knowledge of the insufficiency of funds in the bank or depository at the time of the making or drawing of the check and of an intent to defraud.

(D) Notice as used in this section shall consist of either notice given to the person entitled thereto in person or notice given to the person in writing. The notice in writing is presumed to have been given when deposited as certified matter in the United States mail, addressed to the person at his or her address as it appears on the check.

(Ord. 89, passed 7-17-1979; Am. Ord. 106, passed 7-19-1983) Penalty, see § 132.99

§ 132.10 LARCENY.

Larceny consists of the stealing of anything of value which belongs to another.

(NMSA § 30-16-1) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.11 RECEIVING STOLEN PROPERTY.

(A) Receiving stolen property means the intentional receiving, retaining or disposing of stolen property knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(B) The requisite knowledge or belief that property has been stolen is presumed in the case of an individual or dealer who:

(1) Is found in possession or control of property stolen from two or more persons on separate occasions;

(2) Acquires stolen property for a consideration which the individual or dealer knows is far below the property's reasonable value; (A dealer shall be presumed to know the fair market value of the property in which he or she deals.)

(3) Is found in possession or control of five or more items of property stolen within one year prior to the time of the incident charged pursuant to this section.

(C) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DEALER. A person in the business of buying or selling goods or commercial merchandise. (NMSA § 30-16-11) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.12 SHOPLIFTING.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MERCHANDISE. Chattels of any type or description regardless of the value offered for sale in or about a store.

MERCHANT. Any owner or proprietor of any store, or any agent, servant or employee of the owner or proprietor.

STORE. A place where merchandise is sold or offered to the public for sale at retail. (NMSA § 30-16-19)

(B) Shoplifting consists of any one or more of the following acts:

(1) Willfully taking possession of any merchandise with the intention of converting it without paying for it;

(2) Willfully concealing any merchandise with the intention of converting it without paying for it;

(3) Willfully altering any label, price tag or marking upon any merchandise with the intention of depriving the merchant of all or some part of the value of it; or

(4) Willfully transferring any merchandise from the container in or on which it is displayed to any other container with the intention of depriving the merchant of all or some part of the value of the merchandise.

(NMSA § 30-16-20)

(C) (1) Any person who willfully conceals merchandise on his or her person or on the person of another or among his or her belongings or the belongings of another or on or outside the premises of the store shall be prima facie presumed to have concealed the merchandise with the intention of converting it without paying for it.

(2) If any merchandise is found concealed upon any person or among his or her belongings it shall be prima facie evidence of willful concealment.

(NMSA § 30-16-22)

(D) If any law enforcement officer, special officer or merchant has probable cause for believing that a person has willfully taken possession of any merchandise with the intention of converting it without paying for it, or has willfully concealed merchandise, and that he or she can recover the merchandise by detaining the person or taking him or her into custody, the law enforcement officer, special officer or merchant may, for the purpose of attempting to affect a recovery of the merchandise, take the person into custody and detain him or her in a reasonable manner for a reasonable time. The taking into custody or detention shall not subject the officer or merchant to any criminal liability.

(NMSA § 30-16-23)

(E) Any law enforcement officer may arrest without warrant any person he has probable cause for believing has committed the crime of shoplifting. Any merchant who causes an arrest shall not be criminally or civilly liable if he or she has probable cause for believing the person so arrested has committed the crime of shoplifting.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.13 POSSESSION OF BURGLARY TOOLS.

Possession of burglary tools consists of having in the person's possession a device or instrumentality designed or commonly used for the commission of burglary and under circumstances evincing an intent to use the same in the commission of burglary.

(NMSA § 30-16-5) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.14 SWINDLING.

Swindling consists of the deliberate cheating and defrauding or tricking to take anything of value which belongs to another.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.15 BRIBERY OF PUBLIC OFFICIAL OR EMPLOYEE.

Bribery of public officer or public employee consists of any person giving or offering to give, directly or indirectly, anything of value to any public officer or public employee, with intent to induce or influence the public officer or public employee to:

(A) Give or render any official opinion, judgment or decree;

(B) Be more favorable to one party than to the other in any cause, action, suit, election, appointment, matter or thing pending or to be brought before the person;

(C) Procure him or her to vote or withhold his or her vote on any question, matter or proceeding which is then or may thereafter be pending, and which may be law come or be brought before him or her in his or her public capacity;

(D) Execute any of the powers in him or her vested; or

(E) Perform any public duty otherwise than as required by law, or to delay in or omit to perform any public duty required of him or her by law.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

DRUGS AND ALCOHOL**§ 132.25 DRINKING IN PUBLIC PLACES.**

Drinking in public places consists of drinking or consuming alcoholic liquors, as the term is defined in NMSA §§ 60-3A-3 *et seq.*, as amended, in or on any public place, private club, key club, whether operated for profit or not, or on a parking lot adjacent to an establishment licensed to dispense alcoholic liquors; provided, that this section shall not apply to drinking inside an establishment having a license to dispense alcoholic liquors.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.26 SELLING ALCOHOL IN PUBLIC PLACES.

Selling of alcohol in public places consists of selling, serving, furnishing or permitting the drinking or consumption of alcoholic liquors, as the term is defined in NMSA §§ 60-3A-3 *et seq.*, as amended, in any public place or private club or key club, whether operated for profit or not, except establishments having a license to dispense alcoholic liquors by the owner, operator, lessee or proprietor thereof.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.27 MARIJUANA; UNLAWFUL POSSESSION.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MARIJUANA. All parts of the plant *Cannabis Sativa L.*, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination. (NMSA § 30-31-2)

(B) Unlawful possession of marijuana consists of the possession of marijuana which was not obtained directly from, or pursuant to, a valid prescription or order of a doctor of medicine while acting in the course of his or her professional practice, or as otherwise authorized by law.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.28 DRUG PARAPHERNALIA.

(A) Pursuant to NMSA § 30-31-26B, as amended, it is unlawful for any person to use or possess with intent to use drug paraphernalia, as defined in NMSA § 30-31-2, as amended, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance enumerated in NMSA §§ 30-31-6 through 30-31-9 Schedule I, II, III or IV, as amended, in violation of NMSA §§ 30-31 *et seq.*, as amended. The provisions of this section do not apply to a person who is in possession of hypodermic syringes or needles at the time he or she is directly and immediately engaged in a harm reduction program, as provided in the Harm Reduction Act, NMSA §§ 24-2C1-1 to 24-2C-6.

(B) Pursuant to NMSA § 30-31-26B, as amended, it is unlawful for any person to deliver, possess with intent to deliver or manufacture with the intent to deliver drug paraphernalia, as defined, with knowledge, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of NMSA §§ 30-31 *et seq.*, as amended. The provisions of this section do not apply to Department of Health employees or their designees while they are directly and immediately engaged in activities related to the harm reduction program authorized by the Harm Reduction Act.

(Ord. 198, passed 3-20-2001) Penalty, see § 132.99

GAMBLING; RAFFLES

§ 132.40 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BET.

(1) A bargain in which the parties agree that, dependent upon chance even though accompanied by some skill, one stands to win or lose anything of value specified in the agreement.

(2) A ***BET*** shall not include:

(a) Bona fide business transactions which are valid under the law of contracts, including without limitation:

1. Contracts for the purchase or sale, at a future date, of securities or other commodities; and

2. Agreements to compensate for loss caused by the happening of the chance, including without limitation, contracts for indemnity or guaranty and life or health and accident insurance.

(b) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in the contest;

(c) A lottery, as defined in this section; or

(d) Betting otherwise permitted by law.

CONSIDERATION. Anything of monetary value required to be paid to the promoter in order to participate in the enterprise.

GAMBLING DEVICE. A mechanical device which for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined by chance even though accompanied by some skill, and whether or not the prize is automatically paid by the device.

GAMBLING PLACE. Any building, tent, vehicle (whether self-propelled or not), or any room within any of them, a principal use of which is any of the following: making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices.

LOTTERY. An enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance even though accompanied by some skill. (NMSA § 30-19-1) (Ord. 89, passed 7-17-1979)

§ 132.41 GAMBLING AND LOTTERY PROHIBITED.

It shall be unlawful for any person to:

(A) Make a bet;

(B) Enter or remain in a gambling place with intent to make a bet, to participate in a lottery or to play a gambling device;

(C) Conduct a lottery; or

(D) Possess facilities with intent to conduct a lottery.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.42 PERMISSIVE LOTTERY.

(A) Nothing in this subchapter shall be construed to apply to any sale or drawing of any prize at any fair held in the state for the benefit of any church, public library or religious society situate or being in the state, or for charitable purposes when all the proceeds of the fair shall be expended in the state for the benefit of the church, public library, religious society or charitable purposes.

(B) A lottery shall be operated for the benefit of the organization or charitable purpose only when the entire proceeds of the lottery go to the organization or charitable purpose and no part of the proceeds to any individual member or employee thereof.

(C) Nothing in this subchapter shall be held to prohibit any bona fide motion picture theater from offering prizes of cash or merchandise for advertising purposes, in connection with the business, or for the purpose of stimulating business, whether or not any consideration other than a monetary consideration in excess of the regular price of admission is exacted for participation drawings for prizes.

(D) Nothing in this subchapter shall be held to apply to any bona fide county fair, including fairs for more than one county, which shall have been held annually at the same location for at least two years and which shall offer prizes of livestock or poultry in connection with the fair when the proceeds of the drawings shall be used for the benefit of the fair.

(NMSA § 30-19-6) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.43 FRAUDULENTLY OPERATING A LOTTERY.

Fraudulently operating a lottery consists of operating or managing any lottery which does not provide a fair and equal chance to all participants or which lottery is conducted in a manner tending to defraud or mislead the public.

(NMSA § 30-19-7) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.44 COMMERCIAL GAMBLING PROHIBITED.

It shall be unlawful for any person to:

(A) Participate in the earnings of or operate a gambling place;

(B) Receive, record or forward bets or offers to bet;

(C) Possess facilities with the intent to receive, record or forward bets or offers to bet;

(D) For gain, become a custodian of anything of value, bet or offered to be bet;

(E) Conducting a lottery where both the consideration and the prize are money, or whoever with intent to conduct a lottery, possess facilities to do so; or

(F) Set up for use, for the purpose of gambling or collecting the proceeds of any gambling device.
(NMSA § 30-19-3) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.45 PREMISES; PERMISSION TO GAMBLE PROHIBITED.

It shall be unlawful for any person to:

(A) Knowingly permit any property owned or occupied by the person or under his or her control to be used as a gambling place; or

(B) Knowingly permit a gambling device to be set up for use for the purpose of gambling in a place under his or her control.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.46 GAMBLING DEVICES.

(A) It shall be unlawful for any person to manufacture, transfer commercially or possess with intent to transfer commercially any of the following:

(1) Anything which he or she knows evidences, purports to evidence or is designed to evidence participation in gambling; or

(2) Any device which he or she knows is designed exclusively for gambling purposes or anything which he or she knows is designed exclusively as a subassembly or essential part of the device. This includes, without limitation, gambling devices, numbers jars, punch boards and/or roulette wheels.

(B) Proof of possession of any device designed exclusively for gambling purposes which is not in a gambling place and is not set up for use is prima facie evidence of possession with intent to transfer.

(NMSA § 30-19-5) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

INDECENT EXPOSURE

§ 132.60 INDECENT EXPOSURE.

Indecent exposure consists of a person knowingly and indecently exposing the private parts or sexual organs to the public view. Indecent exposure is unlawful.

(Ord. 89, passed 7-17-1979) Penalty, see § 132.99

PROSTITUTION**§ 132.70 PROSTITUTION GENERALLY.**

Prostitution consists of knowingly engaging in or offering to engage in a sex act for hire. (NMSA § 30-9-2) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.71 PATRONIZING PROSTITUTES.

Patronizing prostitutes consists of:

(A) Entering or remaining in a house of prostitution with intent to engage in a sex act with a prostitute; or

(B) Knowingly hiring a prostitute to engage in a sex act. (NMSA § 30-9-3) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.72 PROMOTING PROSTITUTION.

Promoting prostitution consists of any person:

(A) Knowingly establishing, owning, maintaining or managing a house of prostitution or participating in the establishment, ownership, maintenance or management thereof;

(B) Knowingly permitting any place which a person partially or wholly owns or controls to be used as a house of prostitution;

(C) Knowingly procuring a prostitute for a house of prostitution;

(D) Knowingly inducing another to become a prostitute;

(E) Knowingly soliciting a patron for a prostitute or for a house of prostitution;

(F) Knowingly procuring a prostitute for a patron;

(G) Knowingly procuring transportation for, paying for the transportation of or transporting a person within this village with the intention of promoting that person's engaging in prostitution; or

(H) Knowingly being employed by a house of prostitution to perform any function which constitutes promoting prostitution.

(NMSA § 30-9-4) (Ord. 89, passed 7-17-1979) Penalty, see § 132.99

§ 132.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 130.99.

(B) Whoever unlawfully possesses marijuana shall, for the first offense, be punished by a fine of not less than \$100, nor more than \$200, and/or by imprisonment for not more than 15 days; for the second and subsequent offenses, be punished by a fine of not less than \$300, nor more than \$500, and/or by imprisonment for not more than 90 days.

(Ord. 89, passed 7-17-1979; Am. Ord. 204, passed 5-20-2003)

(C) Any person who violates § 132.28 and is found guilty, upon conviction, shall be punished by a fine of not less than \$100, nor more than \$200, by imprisonment for a definite term of 90 days or less or both unless prohibited by the Controlled Substances Act, NMSA §§ 30-31-1 *et seq.*, in which case the penalty provided for in the Controlled Substances Act shall be imposed.

(Ord. 198, passed 3-20-2001; Am. Ord. 204, passed 5-20-2003)

CHAPTER 133: OFFENSES AGAINST OR PERTAINING TO MINORS

Section

- 133.01 Abandonment of child prohibited
- 133.02 Cruelty to child prohibited
- 133.03 Contributing to delinquency of a minor
- 133.04 Curfew
- 133.05 Permitting loitering by minors

§ 133.01 ABANDONMENT OF CHILD PROHIBITED.

Abandonment of child consists of the parent of a child, ten years old or less, or any person who has been entrusted with or who has assumed the care of the child, who intentionally leaves the child or abandons him or her under circumstances whereby the child may suffer from neglect, but which does not result in the death of or great bodily harm to the child.

(NMSA § 30-6-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 133.02 CRUELTY TO CHILD PROHIBITED.

Cruelty to children consists of any parent, guardian or other person having care or custody of any child to:

(A) Intentionally cause or permit:

- (1) The life of the child to be endangered;
- (2) The health of the child to be injured; or
- (3) The morals of the child to be impaired.

(B) Intentionally place the child in a situation where:

- (1) The life of the child is endangered;
- (2) The health of the child is injured; or

(3) The morals of the child is impaired.

(C) Willfully, torture, torment or cruelly punish or injure the child; or

(D) Willfully or negligently deprive the child of necessary food, clothing or shelter.

(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 133.03 CONTRIBUTING TO DELINQUENCY OF A MINOR.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MINOR. Any person under 21 years of age.

(B) It shall be a violation of this section for any club, retailer, dispenser, bartender, waiter or servant or employee of any club, retailer or dispenser, or for any taxi driver, hotel employee or any other person to do any of the following acts:

(1) To sell, serve or give any alcoholic liquor to a minor;

(2) To buy alcoholic liquor for or to procure the sale or service of alcoholic liquor to a minor;

(3) To deliver alcoholic liquor to a minor; and/or

(4) To aid or assist a minor to buy, procure or be served with alcoholic liquor.

(C) It shall be a violation of this section for any minor to buy, receive, possess or permit himself or herself to be served with any alcoholic liquor.

(D) In the event any person, except a minor, shall procure any other person to sell, serve or deliver any alcoholic liquor to a minor by actual or 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 the alcoholic liquors to the minor, that the minor is legally entitled to be sold, served or delivered alcoholic liquors; and actually deceiving him or her by misrepresentation or concealment, then that person, and not the person so deceived by the misrepresentation or concealment, shall have violated this section.

(Ord. 89, passed 7-17-1979; Am. Ord. 186, passed 8-18-1998) Penalty, see § 130.99

§ 133.04 CURFEW.

(A) It shall be unlawful for any parent, guardian or any other person having care or custody of a minor under the age of 18 years to permit or allow the minor to be upon any public thoroughfare, or any public place without adequate supervision on weekdays (Sunday through Thursday) from 10:00 p.m. to 6:00 a.m. and on weekends from 11:00 p.m. to 6:00 a.m.

(B) The restrictions mentioned above shall not apply to any minor who shall be accompanied by a parent, guardian or adult acting with the authority of the parent or any minor upon an errand of necessity on the performance of duty directed by any parent, guardian or other person acting with the authority of the parent or to any minor attending any school or church sponsored event or to any minor coming from or going to work.

(C) It should be the duty of peace officers to apprehend and take into custody any minor found in violation of this section. The officer shall thereupon notify the parent or guardian of the parent or guardian shall be deemed guilty of permitting a violation of this section.

(D) In the event that the parent or guardian cannot be located, the child shall be remanded to the custody of the proper juvenile authorities.

(E) For the violation of this section, the minor shall be released to the custody of his or her parent or guardian or other person having care or custody of minor upon written promise that the parent or guardian shall assume the responsibility that the child will comply with the provisions of this section. Juvenile authorities shall make a written report and keep a record of each violation. Any parent, guardian or other adult person having the care and custody of a minor violating this section shall be punished in accordance with § 130.99.

(Ord. 89, passed 7-17-1979; Am. Ord. 107, passed 10-18-1983) Penalty, see § 130.99

§ 133.05 PERMITTING LOITERING BY MINORS.

It shall be unlawful for the owner or operator of any establishment serving alcoholic beverages to permit a minor under the age of 21 years to attend, frequent or loiter in or about the premises without being accompanied by the parent or guardian of the person; or the owner or operator of any poolroom to permit a minor under the age of 18 years to attend, frequent or loiter in or about the premises without being accompanied by the parent or guardian of the person.

(NMSA § 30-20-10) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

CHAPTER 134: OFFENSES AGAINST PUBLIC ADMINISTRATION

Section

- 134.01 Escape; aid and attempt
- 134.02 Accessory
- 134.03 Barbed wire and electric fences
- 134.04 Concealing identity
- 134.05 False alarms and reports
- 134.06 Giving assistance to police officer
- 134.07 Impersonating an officer
- 134.08 Improper handling of fire
- 134.09 Malicious criminal prosecution
- 134.10 Malicious use of telephone
- 134.11 Perjury
- 134.12 Removal of barricades
- 134.13 Resisting or obstructing an officer
- 134.14 Tampering with evidence
- 134.15 Unauthorized use of vehicle signs
- 134.16 Disorderly conduct

§ 134.01 ESCAPE; AID AND ATTEMPT.

(A) Aiding escape consists of either:

(1) Intentionally aiding any person confined or held in lawful custody or confinement to escape;
or

(2) Any officer, jailer or other employee intentionally permitting any prisoner in his or her custody to escape.
(NMSA § 30-22-11)

(B) Escape from custody of a peace officer consists of any person who shall have been placed under lawful arrest for the commission or alleged commission of any crime, unlawfully escaping or attempting to escape from the custody or control of any peace officer.
(NMSA § 30-22-10)

(C) Escape from jail consists of any person who shall have been lawfully committed to any jail for the commission of a crime, escaping or attempting to escape from the jail or from a work detail to which the person is assigned.

(NMSA § 30-22-2) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.02 ACCESSORY.

It shall be unlawful for any person in any manner to procure, counsel, advise or encourage, aid or abet any other person in the commission of any offense defined herein under this Title.

(NMSA § 30-1-13) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.03 BARBED WIRE AND ELECTRIC FENCES.

Unlawful use of barbed wire and electric fences consists of erecting or maintaining any fence composed wholly of or in part of barbed wire or any fence so constructed as to produce an electric shock upon, along or about any lot or parcel of ground fronting upon or adjoining any street, alley, avenue or common or public thoroughfare, or along any ditch within the village limits, except that industrial or property protection fences may contain one or more strands of barbed wire if the wire is six feet or more above the ground.

(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.04 CONCEALING IDENTITY.

It shall be unlawful for any person to conceal his or her true name or identity or disguise himself or herself by the use of a fictitious, altered or false voter's registration card, driver's license or any instrument purported to be issued by any agency of the government of the United States, the state or its political subdivisions, the District of Columbia or any state, territory, trusteeship or possession of the United States with the intent to obstruct due execution of the law or with the intent to intimidate, hinder or interrupt any public official, peace officer or any other person in the legal performance of his or her duties.

(NMSA § 30-22-3) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.05 FALSE ALARMS AND REPORTS.

(A) False report consists of knowingly conveying or causing to be conveyed to any police agency of fire department a false report concerning fire or explosion or the placement of any explosives or explosive incendiary device or any other destructive substance and includes, but is not limited to , setting off a fire alarm.

(B) Any person who commits false report which causes death or great bodily harm to another is guilty of a fourth degree felony, but if such death or great bodily harm is not caused, the person is guilty of a misdemeanor.

(NMSA § 30-7-21) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.06 GIVING ASSISTANCE TO POLICE OFFICER.

It shall be unlawful for any citizen 18 years or older to refuse to assist any peace officer in the preservation of the peace when called upon by the officer in the name of the United States or of the state or of the village.

(NMSA § 30-22-2) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.07 IMPERSONATING AN OFFICER.

(A) Impersonating a peace officer consists of:

(1) Without due authority exercising or attempting to exercise the functions of a peace officer;

(2) Pretending to be a peace officer with the intent to deceive another person.

(B) Whoever commits impersonating a peace officer is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.

(C) As used in this section, **PEACE OFFICER** means any public official or public officer vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

(NMSA § 30-27-2.1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.08 IMPROPER HANDLING OF FIRE.

(A) Improper handling of fire consists of:

(1) Setting fire, or causing or procuring a fire to be set to any inflammable vegetation or forest material, growing or being on the lands of another person and without the permission of the owner thereof;

(2) Allowing fire to escape or spread from the control of the person having charge thereof without using reasonable and proper precaution to prevent such fire from escaping or spreading;

(3) Burning any inflammable vegetation or forest material whether upon his or her own land or that of another person, without using proper and reasonable precaution at all times to prevent the escape of the fire;

(4) Leaving any campfire burning and unattended upon the lands of another person; or

(5) Causing a fire to be started in any inflammable vegetation or forest material, growing or being upon the lands of another person, by means of any lighted cigar, cigarette, match or other manner and leaving the fire unquenched.

(B) Nothing herein shall constitute improper handling of fire where the fire is a backfire set for the purpose of stopping the progress of a fire then actually burning.

(NMSA § 30-17-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.09 MALICIOUS CRIMINAL PROSECUTION.

Malicious criminal prosecution consists of maliciously procuring or attempting to procure a complaint or otherwise causing or attempting to cause a criminal charge to be preferred or prosecuted against an innocent person, knowing or believing him or her to be innocent.

(NMSA § 30-27-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.10 MALICIOUS USE OF TELEPHONE.

(A) It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to telephone another and use any obscene, lewd or profane language or suggest any lewd, criminal or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It shall also be unlawful for any person to attempt by telephone to extort money or other thing of value from any other person, or to otherwise disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any other person at the place where the telephone call or calls were received, or to maliciously make a telephone call, whether or not conversation ensues, with intent to annoy or disturb another, or to disrupt the telecommunications of another.

(B) The use of obscene, lewd or profane language or the making of a threat or statement as set forth in division (A) above shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

(C) Any offense committed by use of a telephone as set forth in this section shall be deemed to have been committed within the village if committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

(NMSA § 30-20-12) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.11 PERJURY.

Perjury consists of making a false statement under oath or affirmation, material to the issue or matter involved in the course of any municipal proceeding, knowing the statement to be untrue.
(NMSA § 30-25-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.12 REMOVAL OF BARRICADES.

Removal of barricades consists of knowingly or willfully removing, destroying or interfering with any barrier, guard or light or any other warning device placed before or at any dangerous place in or near the street, sidewalks or ways of the village for the purpose of warning or protecting the public from injury or damage; provided that removal after the danger has ceased and temporary removal to allow the passage of a vehicle with immediate subsequent replacement shall not be considered unlawful.
(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.13 RESISTING OR OBSTRUCTING AN OFFICER.

Resisting or obstructing an officer consists of:

(A) Knowingly obstructing, resisting or opposing any officer or agent of this village 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 village or state or any other judicial writ or process;

(B) Resisting or abusing any judge, magistrate or peace officer in the lawful discharge of his or her duties;

(C) Refusing to obey or comply with any lawful process or order given by a peace officer or judge acting in the lawful discharge of his or her duties; or

(D) Interfering with, obstructing or opposing any officer in the lawful discharge of his or her regular and affixed duties.

(NMSA § 30-22-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.14 TAMPERING WITH EVIDENCE.

Tampering with evidence consists of destroying, changing, hiding, placing or fabricating any physical evidence with intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another.

(NMSA § 30-22-5) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.15 UNAUTHORIZED USE OF VEHICLE SIGNS.

Unauthorized use of vehicle signs consists of displaying on any vehicle, whether moving or parked, the words police, Police Department, Tularosa Police Department, Department of Police, DPS, Fire Department, Tularosa Fire Department or words or insignia of similar import without authority of the Chief of Police. Nothing herein shall apply to any State Police, County Sheriff or County Fire Department vehicles.

(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 134.16 DISORDERLY CONDUCT.

Disorderly conduct consists of either:

(A) Engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which creates a clear and present danger of violence that tends to disturb the public peace;

(B) Maliciously disturbing, threatening or, in an insolent manner, intentionally touching any house or vehicle occupied by any person;

(C) Inciting, causing, aiding, abetting or assisting in creating any riot, affray or disturbance at or within any dwelling or building, whether public or private, or at any other public place in the village;

(D) Using, in any public place, words which are inherently likely to provoke an immediate violent reaction in an average person to whom the words were addressed;

(E) Remaining prostrate in the street or other public places or private places, whether drunk or sober, without the consent of the owner of the premises; and/or

(F) Prowling window peeping, loitering, or wandering upon the private property of another in the night time, without visible or lawful business with the owner or occupant thereof, while loitering prowling or wandering upon the private property of another in the night time or day time, peeking or looking in the door or window of any building or structure located thereon and which is inhabited by human beings, without visible or lawful business with the owner or occupant thereof.

(NMSA § 30-20-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

CHAPTER 135: OFFENSES AGAINST ANIMALS

Section

135.01 Cruelty to animals

135.02 Injury to animals

§ 135.01 CRUELTY TO ANIMALS.

Cruelty to animals consists of:

(A) Torturing, tormenting, depriving of necessary shelter, cruelly beating, mutilating, cruelly killing or over-driving any animal; or

(B) Unnecessarily failing to provide any animal with proper food or drink.
(NMSA § 3-18-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 135.02 INJURY TO ANIMALS.

Injury to animals consists of willfully and maliciously poisoning, killing or injuring any animal or domesticated fowl which is the property of another. It is unlawful to injure animals.
(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

CHAPTER 136: OFFENSES AGAINST PERSONS

Section

- 136.01 Abuse of privacy
- 136.02 Assault and battery

§ 136.01 ABUSE OF PRIVACY.

(A) Interference with communications consists of knowingly:

(1) Tampering, displacing, removing, injuring or destroying any radio station, television tower, antenna or cable, telegraph or telephone line, wire, cable, pole or conduit belonging to another or the material or property appurtenant thereto;

(2) Cutting, breaking, tapping or making any connection with any television, telegraph or telephone line, wire, cable or instrument belonging to another;

(3) Reading, hearing, interrupting, taking or copying any message, communication or report intended for another by telegraph or telephone without his or her consent;

(4) Preventing, obstructing or delaying the sending, transmitting, conveying or delivering in the village of any message, communication or report by or through telegraph or telephone; or

(5) Using any apparatus to do or cause to be done any of the acts hereinbefore mentioned or to aid, agree with, comply or conspire with any person to do, or permit or cause to be done any of the acts hereinbefore mentioned.

(NMSA § 30-7.2-1)

(B) Disturbing the remains of a dead person consists of knowingly:

(1) Disturbing or removing the remains, or any, part thereof, of any person permanently interred in any church, churchyard, mausoleum or cemetery, other than pursuant to an order of the District Court; or

(NMSA § 30-12-1)

(2) Disturbing or removing any dead body, except within the authorization of a medical director, funeral director, medical investigator or law enforcement agency, or the authorized representative of any of the foregoing.

(C) Defacing tombs consists of either:

(1) Intentionally defacing, breaking, destroying or removing any tomb, monument or gravestone erected to any deceased person or any memento, memorial or any ornamental plant, tree or shrub appertaining to the place of burial of any human being; or

(2) Intentionally marking, defacing, injuring, destroying or removing any fence, post, rail or wall of any cemetery, graveyard or mausoleum erected within any cemetery, graveyard or mausoleum.
(NMSA § 30-12-13) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 136.02 ASSAULT AND BATTERY.

(A) Assault consists of either:

(1) An attempt to commit a battery upon the person of another; or

(2) Any unlawful act, threat or menacing conduct which causes another person to reasonably believe that he or she is in danger of receiving an immediate battery.
(NMSA § 30-3-1)

(B) Battery is the unlawful, intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner.
(NMSA § 30-3-4) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

CHAPTER 137: WEAPONS

Section

- 137.01 Definitions
- 137.02 Unlawful carrying
- 137.03 Negligent use
- 137.04 Exceptions; permits
- 137.05 Unlawful possession, transfer or sale

§ 137.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CARRYING A DEADLY WEAPON. 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.

DEADLY WEAPON. Any firearm, whether loaded or unloaded; or any weapon which is capable of producing death or great bodily harm, including, but not restricted to any types of daggers, brass knuckles, switchblade knives, Bowie knives, poniards, butcher knives, dirk knives and all such weapons with which dangerous cuts can be given, or with a which dangerous thrusts can be inflicted, including swordcanes and any kind of sharp pointed canes, also slingshots, slug shoes, bludgeons or any other weapons with which dangerous wounds can be inflicted.

FIREARM. Any instrument used in the propulsion of shot, shell or bullets or other harmful objects by the action of gunpowder exploded within it or by the power of springs and including what are commonly known as air rifles and BB guns.

(NMSA § 30-7-1) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 137.02 UNLAWFUL CARRYING.

(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 or her as owner, lessee, tenant or licensee;
- (2) In a private automobile or other private means of conveyances, for lawful protection of the person's or another's person or property, while traveling; or
- (3) By a peace officer in the lawful discharge of his or her duties.

(B) Nothing in this section shall be construed to prevent the carrying of any unloaded firearm. (NMSA § 30-7-2) (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 137.03 NEGLIGENT USE.

(A) Negligent use of a deadly weapon consists of:

- (1) Unlawfully discharging a firearm, within or into the village limits, in the proximity of a building or vehicle, or into any building or vehicle so as to knowingly endanger a person or his or her property;
- (2) Carrying a weapon while under the influence of an intoxicant or narcotic;
- (3) Endangering the safety of another or his or her 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 any intoxicant or narcotic or that the person is incompetent.

(NMSA § 30-7-4)

(B) The provisions set forth above shall not be constructed to forbid peace officers from carrying, wearing or discharging the weapons as shall be necessary in the proper discharge of their duties. (Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 137.04 EXCEPTIONS; PERMITS.

(A) The Village Board of Trustees may, at any time upon receipt of proper application, grant permits to shooting galleries, gun clubs and others for shooting in fixed localities and under specified rules.

(B) The permits shall be in writing affirmed by the Clerk-Treasurer conforming to such requirements as the Police Chief shall demand and the permit thus issued shall be subject to revocation at any time by action of the Board of Trustees.

(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

§ 137.05 UNLAWFUL POSSESSION, TRANSFER OR SALE.

(A) Unlawful possession or transfer of certain weapons consists of possessing, selling, lending, giving away or purchasing any form of brass knuckles, any form of bludgeon or any knife which has a blade which opens automatically by hand pressure to a button, spring or other device in the handle of the knife, or any knife having a blade which opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement.

(NMSA § 30-7-8)

(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 a weapon or ammunition for his or her child or ward.

(Ord. 89, passed 7-17-1979) Penalty, see § 130.99

