

OFFENSES AND MISCELLANEOUS PROVISIONS

Section 24-1.	Penalty for violation of chapter.	Section 24-15.	False alarms.
Section 24-2.	Reserved.	Section 24-16.	False reports of crime.
Section 24-3.	Suspension of sentence; probation.	Section 24-17A.	Interference with officers.
Section 24-4.	Assault.	Section 24-17B.	Obedience to police officers
Section 24-5.	Battery.	Section 24-18.	Impersonating an officer.
Section 24-6.	Trespass.	Section 24-19.	Escape of prisoners.
Section 24-7.	Prowling.	Section 24-20.	Littering.
Section 24-8.	Criminal trespass; public property.	Section 24-21.	Removal of earth.
Section 24-9.	Disorderly conduct.	Section 24-22.	Arrest without warrant; liability.
Section 24-10.	Sales or service of alcoholic beverages to intoxicated persons; drinking in vehicle or in public.	Section 24-23.	Controlled substance: possession of marijuana prohibited; less than eight ounces.
Section 24-11.	Discharge of weapons.	Section 24-24.	Concealing identity.
Section 24-12.	Failure to report treatment of wounds.	Section 24-25.	Compounding a crime.
Section 24-13.	Propelling of missiles.	Section 24-26.	Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions.
Section 24-14.	Possession of burglary tools.		

State law reference: Criminal Code, NMSA 1978, § 30-1-1 *et seq.*; Municipal authority to regulate or prohibit nuisances and offenses, NMSA 1978, § 3-18-17.

Section 24-1. Penalty for violation of chapter.

Any person who shall enter a plea of guilty or who shall be convicted of the violation of any provision of this chapter shall be punished in accordance with Section 1-6, unless a different penalty is established by ordinance for the specific offense.

History: Ord. No. 36, § 22, adopted 11-16-72; Ord. No. 05-02, adopted 4-26-05.

Section 24-2. Reserved.

Section 24-3. Suspension of sentence; probation.

Unless otherwise prohibited by law, upon the entry of a plea of guilty or judgment of conviction, the Municipal Court may suspend, in whole or in part, the execution of sentence, or may place the defendant on probation for a period not exceeding one year, on conditions the Court deems best, or both; provided, that suspension of execution of the sentence or probation, or both, shall be granted only when the Municipal Judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability for any fine or other punishment imposed is fully discharged upon successful completion of the terms and conditions of probation.

History: Ord. No. 36, § 23, adopted 11-16-72.

Section 24-4. Assault.

It is unlawful for any person to attempt to commit a battery upon the person of another or by any unlawful act, threat or menacing conduct, cause another person to believe he is in danger of receiving an immediate battery. When an alleged victim and offender are household members, the offender may be arrested pursuant to Section 24-22 of this Code.

History: Ord. No. 36, § 1, adopted 11-16-72.

Section 24-5. Battery.

It is unlawful for any person to beat, strike, wound, inflict violence or apply force to the person of another, nor shall a person intentionally touch or apply force to the person of another in a rude, insolent, angry or hostile manner except in connection with an exhibition duly authorized and licensed under law, or in lawful self-defense, or in the line of duty as a duly authorized police officer as circumstances warrant. When an alleged victim and offender are household members, the offender may be arrested pursuant to Section 24-22 of this Code.

History: Ord. No. 36, § 2, adopted 11-16-72.

Section 24-6. Trespass.

It is unlawful for any person to enter or remain upon the property of another knowing that consent to so enter or remain has been denied or withdrawn by the owner or occupant thereof.

History: Ord. No. 36, § 3, adopted 11-16-72.

Section 24-7. Prowling.

It is unlawful to lurk, lie in wait or be concealed upon the property of another without lawful business with the owner or occupant thereof.

History: Ord. No. 36, § 4, adopted 11-16-72.

Section 24-8. Criminal trespass; public property.

(a) Criminal trespass consists of knowingly entering or remaining upon posted private property without possessing written permission from the owner or person in control of that property.

(b) Criminal trespass also consists of knowingly entering or remaining upon the unposted lands of another knowing that consent so to enter or remain is denied or withdrawn by the owner, occupant, or person in control thereof. Notice of no consent to enter shall be deemed sufficient notice to the public and evidence to the courts, by posting of the property at all vehicular access entry ways.

(c) Criminal trespass also consists of knowingly entering or remaining upon lands owned, operated or controlled by the Village knowingly or having been informed that consent so to enter or remain is denied or withdrawn by the custodian thereof.

(d) Whoever commits criminal trespass on any lands in the Village is guilty of a misdemeanor.

(e) Any person who enters upon the lands of another without prior permission and injures, damages or destroys any part of the realty or its improvements, including buildings, structures, trees, shrubs or other natural features, is guilty of a misdemeanor and shall be liable to the owner, lessee or person in lawful possession for civil damages in an amount equal to double the value of the damage to the property injured or destroyed.

(f) It shall be unlawful for any person other than the owner, lessee or person in lawful possession of the posted land to remove, tamper with or destroy any "no trespass" sign or similar sign notifying that land has been posted in accordance with law.

History: Ord. No. 36, § 6(g)(2), adopted 11-16-72; Ord. No. 12-013, adopted 9-11-12.

Section 24-9. Disorderly conduct.

Disorderly conduct is unlawful. A person is guilty of disorderly conduct if he:

(1) Creates a disturbance of the public order by an act of violence or by any act likely to produce

violence;

- (2) Engages in fighting, or in violent, threatening or tumultuous behavior;
- (3) Makes any unreasonably loud noise or otherwise engages in disorderly conduct which tends to disturb the peace;
- (4) Addresses abusive language or threats to any person present which creates a clear and present danger of violence;
- (5) Causes likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a police officer, where three or more persons are committing acts of disorderly conduct in the immediate vicinity;
- (6) Damages, befoils or disturbs public property or property of another so as to create a hazardous, unhealthy or physically offensive condition;
- (7) Makes a telephone call with intent to annoy another, whether or not a conversation ensues;
- (8) Assembles together with two or more persons with intent to do any unlawful act with force or violence against the person or property of another, and who makes any overt act to carry out such unlawful purpose; or
- (9) Maliciously disturbs, threatens, or in any insolent manner intentionally touches any house or vehicle occupied by any person.

History: Ord. No. 36, § 6(a)-(f), (h)-(j), adopted 11-16-72.

Section 24-10. Sales or service of alcoholic beverages to intoxicated persons; drinking in vehicle or in public.

(a) It is unlawful for any person to sell or serve alcoholic beverages or to procure or aid in the procurement of alcoholic beverages for an intoxicated person knowing that the person buying or receiving service of alcoholic beverages is intoxicated.

(b) It is unlawful for any person to consume any alcoholic beverage or possess or have in his possession or under his control any alcoholic beverage in any open container, in any vehicle or public place except:

- (1) Inside those establishments having a license to dispense alcoholic beverages; or
- (2) Where any public celebration is being held and persons holding a valid special dispenser's permit have received approval from the Governing Body, and provided the alcoholic beverage is purchased at the public celebration from the permitted vendor.
 - a. As used in this section "public celebration" includes any county fair, community fiesta, cultural or artistic performance or professional athletic competition of a seasonal nature or activities held on an intermittent basis.
 - b. The special dispensers permit fee shall be \$10.00 per day for each day the permittee dispenses alcoholic beverages.
 - c. The permittee shall be subject to all State laws and local regulations regulating dispenser's privileges and disabilities.

History: Ord. No. 36, §§ 7, 8, adopted 11-16-72; Ord. No. 179, § 2, adopted 11-9-87; Ord. No. 191, § 1, adopted 2-

15-88; Ord. No. 229, § 1, adopted 5-22-90.

Section 24-11. Discharge of weapons.

(a) *Prohibited generally.* It is unlawful to discharge any revolver, pistol, shotgun, rifle, or firearm of any description or kind, or any air gun, gas-operated gun, spring gun, or any bow made for the purpose of projecting or throwing arrows or missiles of any kind, except in a regularly established shooting gallery; provided, that no citizen shall be denied the right to bear arms for lawful defense of person or property

(b) *Exceptions to prohibition.* The provisions set forth in Subsection (a) of this section shall not apply or be construed to prohibit law enforcement officers from carrying, wearing, using, or discharging such weapons as may be necessary in the performance of their duties; nor shall such provisions apply to or prohibit an owner from slaughtering his livestock on his own property by the use of a firearm.

(c) *Forfeiture of deadly weapons.* Every person convicted of a violation of this section shall forfeit to the Village any weapons involved in the violation.

(d) *Disposition of forfeited weapons.* Every police officer upon making an arrest and taking a weapon used in the violation of any section of the Code shall deliver such weapon to the chief of police to be held by him until judgment is entered, and upon a finding of guilt the weapon shall be disposed of as provided in State law.

History: Ord. No. 36, § 11, adopted 11-16-72; Ord. No. 75, § 1, adopted 11-8-77; Cross references: Alcoholic beverages, Ch. 4; Traffic and vehicles, Ch. 34.

Section 24-12. Failure to report treatment of wounds.

It is unlawful for any physician, surgeon or other practitioner of the healing arts licensed by the State to fail to immediately report to the Village police department his treatment of any person in the Village for a wound inflicted by a deadly weapon of any kind.

History: Ord. No. 36, § 12, adopted 11-16-72.

Section 24-13. Propelling of missiles.

It is unlawful for any person to shoot, sling or throw any stone, rock or other propellant, missile or substance in any manner to be reasonably likely to cause injury to any person or property.

History: Ord. No. 36, § 13, adopted 11-16-72.

Section 24- 14. Possession of burglary tools.

It is unlawful to possess any lock pick, skeleton key or key to be used with a bit or bits, jimmy, sledgehammer, pry bar, cold chisel, dynamite, nitroglycerine, blasting caps or other burglary instrument or instruments designed or commonly used for the commission of burglary and under circumstances evincing an intent to use the same in the commission of burglary.

History: Ord. No. 36, § 14, adopted 11-16-72.

Section 24-15. False alarms.

It is unlawful for any person to make, turn in or give a false alarm of fire or of need for police or ambulance assistance, or to interfere with the proper functioning of an alarm system, or to aid or abet the commission of such an act.

History: Ord. No. 36, § 16, adopted 11-16-72; Cross reference: Fire alarms, § 16-36.

Section 24-16. False reports of crime.

It is unlawful for any person to maliciously make or file with the police department any false, misleading or unfounded report or statement concerning the commission or alleged commission of any crime.

History: Ord. No. 36, § 17, adopted 11-16-72.

Section 24-17A. Interference with officers.

It is unlawful to resist, abuse, molest, hinder, obstruct or refuse to obey or assist when called upon to do so, any police officer, firefighter or judge while in the discharge of his duty

History: Ord. No. 36, § 18, adopted 11-16-72; Ord. No. 382, adopted 6-22-04; Cross reference: Fire alarms, § 16-36.

Section 24-17B. Obedience to police officers.

- (1) No person, while in the Village of Corrales, shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with the authority, to regulate or control traffic.

- (2) Whoever violates this section is guilty of a petty misdemeanor.

History: Ord. No. 382, adopted 6-22-04.

Section 24-18. Impersonating an officer.

It is unlawful for any person other than a duly commissioned police officer to wear or carry the uniform, apparel, badge, identification card or other insignia of office, the same, similar or a colorable imitation of that adopted and worn or carried by duly commissioned police officers, unless acting in the course of regular business and with the permission of the Village, or without authority, to exercise or attempt to exercise the functions of, or pretend to be, a police officer or judge.

History: Ord. No. 36, § 19, adopted 11-16-72.

Section 24-19. Escape of prisoners.

(a) *Escape from jail or custody.* It is unlawful for any person, while a prisoner of the Village or otherwise in the custody of or confined by the Village, to escape or attempt to escape or to assist other prisoners to escape or attempt to escape from such custody or confinement.

(b) *Assisting escape.* It is unlawful for any person to assist, attempt to assist, or offer to assist any person in custody of or confined under the authority of the Village to escape from jail, place of confinement or custody.

History: Ord. No. 36, § 20, adopted 11-16-72.

Section 24-20. Littering.

(a) It shall be unlawful for any person intentionally to throw or permit to be deposited or scattered upon any sidewalk, alley, street or public property or upon the private property of another any rubbish, waste, trash or other disposed material of any kind.

(b) It shall be unlawful for any person intentionally to throw or permit to be deposited, discharged or scattered upon or within any arroyo, ditch, drainage channel, stormwater detention or retention reservoir, pond or watercourse any rubbish, trash, liquid or solid waste, oil, grease, pesticide, or other waste materials; provided, however, that irrigation return flows or runoff from roadways into such watercourses shall not be deemed a violation of this section merely because they may contain small concentrations of

oil, grease, sediment, pesticide or other waste materials that are a normal product of agricultural activities or the use of the roadway, and that cannot reasonably be physically separated from such irrigation return flows or runoff; and provided, further, that the spraying or distribution of pesticides, oils, or other materials by authorized officers and employees of Sandoval County or any other public authority, for the purpose of reducing or eliminating mosquitoes and their larvae or any other insects, arachnids or vermin that are injurious to the public health, safety and welfare, shall not be deemed a violation of this section.

(c) Violation of this section or any provision contained in this section shall be punishable by a fine of no less than one hundred dollars (\$100.00) and no greater than five hundred dollars (\$500.00, or imprisonment for not more than ninety (90) days, or both. In the event of continuing or repeated deposition, discharge or scattering of materials in violation of any provision of this section, each day that such deposition, discharge or scattering of materials continues or is repeated shall constitute a separate offense.

History: Ord. No. 28, § 1, adopted 6-21-72; Ord. No. 189, § 6-2-33, adopted 2-15-88; Ord. No. 05-02, adopted 4-26-05; Ord. No. 11-010, adopted 5-10-11. Cross reference: Solid waste management, Ch. 30.

Section 24-21. Removal of earth.

It is unlawful for any unauthorized person to move, distribute or take away any earth, stone or other material from any public street, easement, alley, park or public ground.

History: Ord. No. 189, § 6-2-34, 2-15-88; Cross references - Environment, Ch. 14; Land use, Ch. 18.

Section 24-22. Arrest without warrant; liability.

(a) Notwithstanding the provisions of any other ordinance to the contrary, a police officer may arrest a person and take that person into custody without a warrant when the officer is at the scene of a domestic disturbance and has probable cause to believe that the person has committed an assault or a battery upon a household member.

(b) No police officer shall be held criminally or civilly liable for making an arrest pursuant to this section, provided he acts in good faith and without malice, all pursuant to the law.

(c) Whether or not an arrest is made pursuant to this section, a police officer may remain with the victim and assist the victim in getting to a shelter or in receiving proper medical attention.

History: Ord. No. 07-015, adopted 10-23-07 (adopting Code with this Section included).

Section 24-23. Controlled substance: possession of marijuana prohibited; less than eight ounces.

(a) It is unlawful for any person, while in the Village of Corrales, to intentionally possess a controlled substance, unless the substance was obtained pursuant to a valid prescription or order of a licensed medical professional while acting in the course of his/her professional practice or except as otherwise authorized by the Controlled Substance Act, NMSA 1978, Chapter 30, Article 31 Sections 1 through 42.

(b) Any person who violates this section with respect to:

(1) One ounce or less of marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50) or more than one hundred dollars (\$100) and imprisonment for not more than fifteen days and for the second and subsequent offenses, guilty of a petty misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or by imprisonment for a definite term less than ninety days, or both.

(2) More than one ounce and less than eight ounces of marijuana is guilty of a petty misdemeanor

and shall be punished in accordance with Section 1-6.

History: Ord. No. 382, adopted 6-22-04.

Section 24-24 Concealing identity.

(a) No person, while in the Village of Corrales, shall conceal one's true name, or identity, or disguise oneself with the intent to obstruct the due execution of the law or with the intent to intimidate, hinder or interrupt any public officer or any other person in a legal performance of his duty or the exercise of his rights under the laws of United States or of this State.

(b) Whoever violates this section is guilty of a petty misdemeanor.

History: Ord. No. 382, adopted 6-22-04.

Section 24-25 Compounding a crime.

(a) No person, while in the Village of Corrales, shall knowingly agree to take anything of value upon the agreement or understanding, express or implied, to compound or conceal a crime or to abstain from the prosecution thereof, or to withhold any evidence thereof. For the purpose of this ordinance, a person may be prosecuted and convicted of compounding a crime though the person guilty of the original crime has not been charged, indicted or tried.

(b) Whoever violates this section is guilty of a petty misdemeanor.

History: Ord. No. 382, adopted 6-22-04.

Section 24-26. Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions.

(a) It is unlawful for a person to use or possess with intent to use drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act (§ 30-31-1 NMSA 1978). The provisions of this subsection do not apply to a person who is in possession of hypodermic syringes or needles at the time he is directly and immediately engaged in a harm reduction program, as provided in the Harm Reduction Act (§ 24-2C-1 NMSA 1978).

(b) It is unlawful for a person to deliver, possess with intent to deliver or manufacture with the intent to deliver drug paraphernalia 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 the Controlled Substances Act (§ 30-31-1 NMSA 1978). The provisions of this subsection do not apply to:

- (1) 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; or
- (2) the sale or distribution of hypodermic syringes and needles by pharmacists licensed pursuant to the Pharmacy Act (§ 61-11-1 NMSA 1978).

(c) A person who violates this section with respect to Subsection (a) of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or by imprisonment for a definite term less than one year, or both. A person who violates this section with respect to Subsection (b) of this section is guilty of a misdemeanor.

History: Ord. No. 05-011, adopted 10-25-05.

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