

Chapter 70
OFFENSES

ARTICLE I
Terminology

§ 70-1. Definitions and rules of construction.

ARTICLE II
Public Order and Safety

- § 70-2. Prowling.
- § 70-3. Unreasonable noises.
- § 70-4. Disorderly conduct.
- § 70-5. Vagrancy.
- § 70-6. Removal of barricades.
- § 70-7. Failure to report treatment of wounds.
- § 70-8. Propelling of missiles.
- § 70-9. Impersonating an officer.
- § 70-10. Unauthorized use of certain words and insignia.

§ 70-11. Violations and penalties.

ARTICLE III
Property

- § 70-12. Library property.
- § 70-13. Advertising matter.
- § 70-14. Falsely obtaining services or accommodations.
- § 70-15. Removal of earth.
- § 70-16. Violations and penalties.

ARTICLE IV
Public morals

- § 70-17. Aiding illegal activity.
- § 70-18. Marijuana possession prohibited.
- § 70-19. Violations and penalties.

[HISTORY: Adopted by the Board of Trustees of the Village of Jemez Springs by Ord. No. 46 (Ch. 14 of the 1996 Village Code). Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 14.
Minors — See Ch. 57.

Vehicles and traffic — See Ch. 115.

ARTICLE I
Terminology

§ 70-1. Definitions and rules of construction.

In the construction of this chapter, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section of this chapter, or unless inconsistent with the manifest intent of this chapter.

DISORDERLY CONDUCT — Engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace; or

maliciously disturbing, threatening or, in an insolent manner, intentionally touching any house occupied by any person.¹

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.

MINOR — Any unmarried person who has not reached his 18th birthday, except that under application of the State Alcohol Beverage Control Act, or any alcohol-related division of this chapter, "minor" means any person under 21 years of age.²

PROSTITUTION — Knowingly engaging in or offering to engage in sexual intercourse for hire.

RETARDER — Any exhaust and/or engine device used as braking power to slow down a motor vehicle's rate of speed. When activated, a retarder creates noise through the motor vehicle's exhaust system.

ARTICLE II Public Order and Safety

§ 70-2. Prowling.³

It is unlawful for any person to loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.⁴

-
1. Editor's Note: The former definitions of "accused," "anything of value," "battery," "bet," "carrying a deadly weapon," and "defendant," which immediately preceded this definition, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 2. Editor's Note: The former definition of "official proceeding," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 3. Editor's Note: Original § 14-2-1 of the 1996 Code, Assault; § 14-2-2, Battery; § 14-2-1A and 14-2-2A, Domestic violence, added 9-10-1997 by Ord. No. 125; § 14-2-3, Aggravated battery; and § 14-2-4, Trespass, which immediately preceded this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 4. Editor's Note: Original § 14-2-6 of the 1996 Code, Disturbing the peace, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 70-3. Unreasonable noises.

It is unlawful for any person to make, continue or cause to be made, any loud or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. Unlawful noises include but shall not be limited to the following:

- A. Horns and signal devices. The sounding of any horn or signaling device of any automobile, motorcycle, truck or other vehicle on any street or public place except as a danger warning, the creation of means of any such signaling devices of any unreasonable, loud, or harsh sound, the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure, and the use of any such signaling device where traffic is held up.
- B. Radios and phonographs. The use or operation of any radio, phonograph or other sound-producing machine in such a manner as to disturb the peace and quiet of neighbors.
- C. Loudspeakers and amplifiers used for advertising. The use or operation or permitting to be played, used, or operated any radio, receiver set, musical instrument, phonograph, tape recorder, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public in any residential area except with the proper permit elsewhere prescribed.
- D. Yelling or shouting. Yelling, shouting or creating other loud noises which annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or residence, or of any persons in the vicinity.
- E. Animals. The keeping of any animals which, by causing frequent or long continuous noise, shall disturb the comfort or repose of any persons of the vicinity.
- F. Schools, courts, churches, hospitals. The creating of any excessive noise on any street adjacent to any hospital, school, institution of learning, church or court which interferes with the workings of such institution, or which disturbs or annoys patients in a hospital.
- G. Pounding. The pounding or hammering on any metal object or thing except inside a building or in connection with the construction or erection of a building.
- H. Engine retarder. The excessive sounding of any device or piece of equipment known as a retarder, including engine brakes, is prohibited. [Amended 8-11-1999 by Ord. No. 137]

§ 70-4. Disorderly conduct.

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

- A. Creates a disturbance of the public order by an act of violence or by any act likely to produce violence; or
- B. Engages in fighting, or in violent, threatening or tumultuous behavior; or
- C. Makes any unreasonably loud noise; or

- D. Addresses abusive language or threats to any person present which creates a clear and present danger of violence; or
- E. 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 act of disorderly conduct in the immediate vicinity; or
- F. Damages, befouls or disturbs public property of another so as to create a hazardous, unhealthy or physically offensive condition; or⁵
- G. Disturbs, threatens, or in any insolent manner intentionally touches any house or vehicle occupied by any person.⁶

§ 70-5. Vagrancy.

The following acts comprise the crime of vagrancy and their commission is unlawful:

- A. Waiting or remaining within a public, private or parochial school building or upon school grounds, not having any reason or relationship involving custody of or responsibility for a student, without the written permission of a school official, or in violation of posted rules or regulations.
- B. Occupying, lodging or sleeping in any vacant or unoccupied barn, house, car, shed, shop or other building or structure or in any automobile, truck, railroad car or other vehicle without owning the same or without the permission of the owner or person entitled to possession thereof or sleeping in any vacant lot.
- C. Begging from door to door to private houses or commercial business establishments or placing oneself in or upon any public way or public place to beg.⁷

§ 70-6. Removal of barricades.

It is unlawful to remove, destroy or interfere with any barrier, guard or light placed before or in any dangerous place near the streets, sidewalks or other public ways of the Village for the purpose of warning or protecting travelers from injury or danger, 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.⁸

-
- 5. Editor's Note: Original Subsection G, Trespass; Subsection H, Telephone calls; and Subsection I, Assembly, which immediately followed this subsection, are repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - 6. Editor's Note: Original § 14-2-9 of the 1996 Code, Unlawful assembly, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - 7. Editor's Note: Original § 14-2-11 of the 1996 Code, Obstructing movement, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - 8. Editor's Note: Original § 14-2-13 of the 1996 Code, Deadly weapons, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 70-7. 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.

§ 70-8. 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 as to be reasonably likely to cause injury to any person or property.⁹

§ 70-9. 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 peace officer or judge.¹⁰

§ 70-10. Unauthorized use of certain words and insignia.

It is unlawful to display on any vehicle or sign, without authority of the Village, the words "police," "police department," "fire department," or words or insignia of similar import, whose design or form is such that it appears to be an official vehicle or sign of the Fire or Police Department of the Village, provided that nothing contained herein shall apply to any federal, state or county vehicle.¹¹

§ 70-11. Violations and penalties.

Any person found guilty of violating any provision of this article shall be guilty of a misdemeanor, punishable as provided in § 1-22 of this Code. Every day any violation of this article continues shall constitute a separate offense.

9. Editor's Note: Original § 14-2-16 of the 1996 Code, Possession of burglary tools; § 14-2-17, Possession of fireworks; § 14-2-18, False alarms; § 14-2-19, False reports; and original § 14-2-20, Interference with officers, which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

10. Editor's Note: Original § 14-2-22 of the 1996 Code, Assault upon peace officer, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Original § 14-2-24 of the 1996 Code, Escape of prisoners, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE III
Property

§ 70-12. Library property. ¹²

It is unlawful for any person to carry away without authority, misuse, cut, write upon, injure, deface, tear or destroy any book, periodical, map, newspaper or any other property devoted to public library use.¹³

§ 70-13. Advertising matter.

- A. It is unlawful for any person to distribute any commercial advertising such as show cards, posters, brochures, circulars or handbills upon any public street or way.
- B. It is unlawful for any person to distribute, place or post in or upon any private property, including utility poles, any show card, poster, handbill or other announcement or advertisement without the express consent of the owner or occupant of the property.
- C. It is unlawful for any person to post or affix any poster, handbill or other form of advertisement upon the surface of any public structure or building without the express consent of the public official having charge of said public structure or property.¹⁴

§ 70-14. Falsely obtaining services or accommodations.

It is unlawful for any person to falsely obtain services or accommodations, or for any person to obtain any service, food, entertainment or accommodations without paying therefor, and with the intent to cheat or defraud the owner or person supplying such service, food, entertainment or accommodations. Any offense concerning falsely obtaining services or accommodations when the value of the service, food, entertainment or accommodations is in excess of \$100 shall be turned over to a higher authority.¹⁵

§ 70-15. 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, way, alley, park or public ground.

12. Editor's Note: Original § 14-3-1 of the 1996 Code, Damage to property, which immediately preceded this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13. Editor's Note: Original § 14-3-3 of the 1996 Code, Scattering trash, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

14. Editor's Note: Original § 14-3-5 of the 1996 Code, Petty larceny; § 14-3-6, Receiving stolen property; § 14-3-7, Shoplifting; and § 14-3-8, Worthless checks, which immediately followed this subsection, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

15. Editor's Note: Original § 14-3-10 of the 1996 Code, Wrongful use of public property, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 70-16. Violations and penalties.

Any person found guilty of violating any provision of this article shall be guilty of a misdemeanor, punishable as provided in § 1-22 of this Code. Every day any violation of this article continues shall constitute a separate offense.

**ARTICLE IV
Public morals****§ 70-17. Aiding illegal activity.** ¹⁶

It is unlawful to be found in any place where gambling or prostitution is being conducted with knowledge of such activity or to give or attempt to give any signal intended to give warning of the approach of any police officer to any person in or about any place where any illegal activity is being conducted.

§ 70-18. Marijuana possession prohibited.

It is unlawful for any person intentionally to possess marijuana unless it was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by law.

- A. "Marijuana" means 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, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.
- B. "Practitioner" means a physician, dentist, veterinarian or other person licensed to prescribe and administer drugs which are subject to the Controlled Substance Act of the state.¹⁷
- C. Any person found guilty of violating this section with respect to one ounce or less of marijuana shall be punished by a fine not less than \$50 nor more than \$100 and by imprisonment for not more than 15 days.
- D. Second and subsequent offenses and possession of more than one ounce of marijuana shall be turned over to a higher jurisdiction.
- E. In addition to the penalties set forth in Subsection C or D, any person convicted of possession of marijuana shall pay a fee of \$75 to defray the costs of chemical or other analysis. All funds collected pursuant to this subsection shall be transmitted to the

16. Editor's Note: Original § 14-4-1 of the 1996 Code, Lewd, immoral or obscene acts; § 14-4-2, Window peeping; and § 14-4-3, Gambling, which immediately preceded this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

17. Editor's Note: See NMSA 1978, § 30-31-1 et seq.

administrative office of the courts pursuant to NMSA 1978, § 31-12-3. **[Added by Ord. No. 107]**

§ 70-19. Violations and penalties.

Unless otherwise prescribed in the section any person found guilty of violating any provision of this article shall be guilty of a misdemeanor, punishable as provided in § 1-22 of this Code. Every day any violation of this article continues shall constitute a separate offense.