

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO.     O-19-82     ENACTMENT NO. \_\_\_\_\_

SPONSORED BY:     Patrick Davis

1   ORDINANCE  
2     ADDING A NEW SECTION TO CHAPTER 12, ARTICLE 2 OF THE REVISED  
3     ORDINANCES OF ALBUQUERQUE RELATING TO RESPONSIBLE FIREARM  
4     STORAGE

5           WHEREAS, the Albuquerque Police Department reports that 973  
6     unattended and unsecured firearms were stolen from automobiles and  
7     residences in Albuquerque in just 11 months in 2017; and

8           WHEREAS, An analysis of more than 23,000 stolen firearms recovered by  
9     police between 2010 and 2016 found that the majority of these weapons were  
10    recovered in connection with crimes, including more than 1,500 violent acts  
11    such as murder, kidnapping, and armed robbery; and

12           WHEREAS, The practices of keeping firearms locked, unloaded, and  
13    storing ammunition in a locked location separate from firearms serve as  
14    protective measures that reduce youth suicide and unintentional injury in  
15    homes with children and teenagers where guns are stored; and

16           WHEREAS, In 12 states where child access prevention laws had been in  
17    effect for at least one year, unintentional firearm deaths fell by 23% among  
18    children under 15 years of age; and

19           WHEREAS, A study evaluating the association between youth-focused gun  
20    laws and suicides among youth found that child access prevention laws were  
21    associated with an 8.3% decrease in suicides among 14-17 year olds. Such  
22    laws reduced the risk of firearm suicide in this age group by 10.8%, and

23           WHEREAS, the National Rifle Association's "NRA Family" website includes  
24    numerous recommendations for securing firearms from unauthorized access  
25    and theft and states, "no matter what your storage requirements or financial

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1 situation may be, there is a safe gun storage method to meet your needs”;  
2 and

3 WHEREAS, gun locks are available for free from the US Department of  
4 Justice’s Project ChildSafe, through numerous community organizations, and  
5 are available for purchase for in WalMart, firearms retailers and sporting  
6 goods stores across Albuquerque for as little as \$6.00; and

7 WHEREAS, the Albuquerque Police Department reports that 20% of non-  
8 fatal shootings in Albuquerque were the result of negligent use; and

9 WHEREAS, The Constitutions of the United States and the State of New  
10 Mexico recognize the right to bear arms, with reasonable restrictions; and

11 WHEREAS, persons in New Mexico who are not otherwise prohibited from  
12 possessing firearms are allowed to possess firearms in their homes and  
13 automobiles without permits or registration; and

14 WHEREAS, safe storage requirements do not unreasonably impact the  
15 right to bear or activities incident thereto.

16 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
17 ALBUQUERQUE:

18 SECTION 1. A new Section “30” is added to Chapter 12, Article 2 ROA  
19 1994, as follows:

20 “[§12-2-30. RESPONSIBLE FIREARMS STORAGE

21 (A) SHORT TITLE. This article may be cited as the “Responsible  
22 Firearms Storage Act”

23 (B) DEFINITIONS. As used in this article:

24 “FIREARM” any weapon that will or is designed to or may readily be  
25 converted to expel a projectile by the action of an explosion; the frame or  
26 receiver of any such weapon; or any firearm muffler or firearm silencer.

27 "Firearm" includes any handgun, rifle or shotgun.

28 “IMMEDIATE POSSESSION OR CONTROL” For purposes of this article, a  
29 firearm is within immediate possession or control when it is:

30 a. On the person of its owner;

31 b. In a residence, hotel room or other similarly occupied space  
32 with its owner present in same; or

33 c. In a vehicle with its owner present in the same.

1 “OWNER” means the person who purchased the firearm, or the person  
2 whom the owner has entrusted with the firearm’s custody.

3 “UNATTENDED” means outside the immediate possession or control;

4 (C) REQUIREMENT TO SECURE UNATTENDED FIREARMS

5 (1) It is unlawful for any person to store or otherwise place or  
6 leave a firearm unattended without having rendered the firearm:

7 (a) Inoperable with a functioning, properly engaged,  
8 tamper-resistant mechanical lock or other equivalent safety device specifically  
9 designed for this purpose; or

10 (b) Securely stored by means of a locked safe, or similar  
11 secure and locked container or case with a functioning, tamper resistant  
12 locking mechanism.

13 (2) It is unlawful for any person to sell, gift, or otherwise exchange  
14 ownership of a firearm without an accompanying security device as described  
15 in subsection A(1), above.

16 (3) Nothing in this section shall be construed as affecting the  
17 lawful carrying or keeping of a firearm within the immediate possession and  
18 control of its owner.

19 (D) REQUIREMENT TO PREVENT ACCESS TO FIREARMS BY MINORS.

20 It is unlawful for any person to leave any firearm unattended, unless the  
21 firearm is stored in compliance with subsection (C)(1) above, when the firearm  
22 could otherwise be accessible to: (1) a person under the age of 18 for rifles,  
23 shotguns and long guns; or (2) a person under the age of 21 for handguns.

24 (E) PENALTY; DEFENSES TO VIOLATION.

25 (A) Penalty. Any person convicted of a violation of this Section  
26 shall be subject to the penalty provisions set forth in § 1-1-99 of this Code of  
27 Ordinances, exclusively, and shall not be subject to any additional penalties  
28 prescribed under 12-1-99 of this Criminal Code.

29 (B) Prioritizing Compliance. The City may dismiss or decline to  
30 pursue its prosecution against any person charged with a violation of this  
31 Section upon such person’s satisfactory demonstration of compliance.

32 (C) Affirmative Defense. Facts demonstrating that a lawfully  
33 possessed firearm was misappropriated by an unauthorized person having

1 defeated the security measures required by subsection 12-6-3(A), above,  
2 constitutes an affirmative defense to penalties of this ordinance.  
3 (F) EXCEPTIONS FOR SHOOTING SPORTS EVENTS, LICENSED  
4 RETAILERS AND LAW ENFORCEMENT. This ordinance shall not apply to  
5 premises being operated as a shooting sports event, or on the premises of  
6 otherwise licensed firearms retailers, shooting ranges, or law enforcement  
7 agencies, facilities, and vehicles.]”

8 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
9 clause, word or phrase of this Ordinance is for any reason held to be invalid or  
10 unenforceable by any court of competent jurisdiction, such decision shall not  
11 affect the validity of the remaining provisions of this Ordinance. The Council  
12 hereby declares that it would have passed this Ordinance and each section,  
13 paragraph, sentence, clause, word or phrase thereof irrespective of any  
14 provision being declared unconstitutional or otherwise invalid.

15 SECTION 3. COMPILATION. SECTION 1 of this Ordinance shall amend, be  
16 incorporated in and made part of the Revised Ordinances of Albuquerque,  
17 New Mexico, 1994.

18 SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days  
19 after publication by title and general summary.

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