

BLAINE COUNTY SHERIFF'S OFFICE

CHINOOK, MT

STATE OF MONTANA CONCEALED WEAPON PERMIT APPLICATION

New Application () Renewal non-expired () Transfer/ County ()

This form is to be completed by each person making an application

RESIDENT OF MONTANA FOR AT LEAST 6 MONTHS () YES () NO

LEGAL CITIZEN OF THE UNITED STATES () YES () NO

18 YEARS OF AGE OR OLDER () YES () NO

PLEASE TYPE OR PRINT THE FOLLOWING:

Full Name: _____

Last

First

Middle

Alias/Maiden/Nickname: _____

Address: Physical Home: _____ ZIP: _____

Mailing: _____ ZIP: _____

Employer: _____ ZIP: _____

Phone: Home: _____ Cell: _____ Employer: _____

Sex: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Date of Birth: _____ Place of Birth: _____

Social Security #: _____

Driver's License # _____ Issuing State: _____

LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE LAST 5 YEARS

	Business Name	Address	Dates of Employment
1.	_____	_____	_____
2.	_____	_____	_____

Business Name	Address	Dates of Employment
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____

LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 5 YEARS

City	Address	Dates of Residence
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____

MILITARY SERVICE BRANCH: _____ FROM: _____ TO: _____

TYPE OF DISCHARGE: _____ RANK UPON DISCHARGE _____

HAVE YOU **EVER** BEEN ARRESTED FOR OR CONVICTED OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING? () YES () NO

IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic violations, Attach additional sheet if needed)

City	State	Charge	Date
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____

LIST THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5 YEARS THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL CHARACTER AND PEACABLE DISPOSITION (**DO NOT** include relatives or present/past employers, these three people will complete the required "Personal Reference Questionnaire Affidavit" for your application)

Name	Address	Phone
1.	_____	_____
2.	_____	_____
3.	_____	_____

IN COMPLETE DETAIL, PLEASE EXPLAIN YOUR REASONS FOR REQUESTING THIS PERMIT (Attach additional sheet(s) if necessary):

ARE YOU UNDER INDICTMENT OR INFORMATION IN ANY COURT FOR A **FELONY**, OR ANY OTHER CRIME, FOR WHICH THE JUDGE COULD IMPRISON YOU FOR MORE THAN ONE YEAR? YES NO

ARE YOU A FUGITIVE FROM JUSTICE? YES NO

ARE YOU AN UNLAWFUL USER OF, OR ADDICTED TO, MARIJUANA OR ANY DEPRESSANT, STIMULANT, NARCOTIC DRUG, OR ANY OTHER CONTROLLED SUBSTANCE? YES NO

HAVE YOU EVER BEEN ADJUDICATED MENTALLY DEFECTIVE (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR HAVE YOU EVER BEEN COMMITTED TO A MENTAL INSTITUTION? YES NO

ARE SUBJECT TO A COURT RESTRAINING YOU FROM HARASSING, STALKING, OR THREATENING YOUR CHILD OR AN INTIMATE PARTNER OR CHILD OF SUCH PARTNER? YES NO

HAVE YOU EVER BEEN CONVICTED IN ANY COURT OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE?

YES NO

HAVE YOU EVER RENOUNCED YOUR UNITED STATES CITIZENSHIP?

YES NO

I, the undersigned applicant, swear that the foregoing information is true and correct to the best of my knowledge and belief and is given with the full knowledge that any misstatement contained herein may be sufficient cause for denial or revocation of a permit to carry a concealed weapon. I hereby authorized any person having information concerning me that relates to this information requested by this application and the requirements for a concealed weapon permit, either public record or otherwise, to furnish it the Sheriff to whom this application is made.

SIGNATURE

DATE OF APPLICATION

(To be signed in the presence of the Sheriff or their designee)

BLAINE COUNTY SHERIFF'S OFFICE

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STATE OF MONTANA CONCEALED WEAPON PERMIT

AFFIDAVIT OF TRAINING, PROFICIENCY & LEGAL REVIEW

As a condition for applying for a concealed weapon permit the undersigned hereby certifies that they have: (Mark all that apply)

_____ 1.) Successfully completed a hunter safety course approved or conducted by Montana FWP or a similar agency of another state.

_____ 2.) Successfully completed a firearms safety or training course approve or conducted by Montana FWP, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association.

_____ 3.) Completed a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency.

_____ 4.) Possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a similar course to those above. List State: _____

_____ 5.) Evidence that during military service, the applicant was found to be qualified to operate firearms, including handguns.

Applicant Signature

Date Signed

Applicant Written Name

The above listed applicant has successfully taken the Blaine County Sheriff's Office Concealed Weapons Permit Course & Legal Review.

Instructor

Date Completed

BLAINE COUNTY SHERIFF'S OFFICE

CHINOOK, MT

STATE OF MONTANA CONCEALED WEAPON PERMIT

PERSONAL REFERENCE QUESTIONNAIRE

Name of Applicant _____

Name of Person Completing Questionnaire: _____

Address: _____

Daytime Phone Number: _____

1. How long have you known the applicant?
2. Is the applicant knowledgeable in the use of firearms, especially handguns?
3. Does the applicant exercise good judgement?
4. Is the applicant a threat to the peace or good order of the community?
5. Has the applicant ever been hospitalized or medicated for any type of mental disorder?
6. Does the applicant abuse alcohol or drugs?
7. Is the applicant a member of an anti-American organization or terrorist group?
8. Do you recommend that the applicant be issued a concealed weapons permit?
9. Please explain why or why not in reference to Question #8.

10. Are you a relative or present/ past employer of the applicant?

11. How do you know the applicant?

I do affirm that all facts and statements contained herein are true and complete. I made this statement freely without hope or benefit or reward, without threat of punishment, and with coercion, unlawful influence, or unlawful inducement. I understand that if I make a statement that I know to be false, I can be charged of "Unsworn Falsification to Authorities" in violation of M.C.A. 45-7-203

Signature of Personal Reference Completing Questionnaire

Date

Witness

Date

BLAINE COUNTY SHERIFF'S OFFICE

CHINOOK, MT

STATE OF MONTANA CONCEALED WEAPON PERMIT

PERSONAL REFERENCE QUESTIONNAIRE

Name of Applicant _____

Name of Person Completing Questionnaire: _____

Address: _____

Daytime Phone Number: _____

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6. Does the applicant abuse alcohol or drugs?
7. Is the applicant a member of an anti-American organization or terrorist group?
8. Do you recommend that the applicant be issued a concealed weapons permit?
9. Please explain why or why not in reference to Question #8.

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Witness

Date

BLAINE COUNTY SHERIFF'S OFFICE

CHINOOK, MT

STATE OF MONTANA CONCEALED WEAPON PERMIT

PERSONAL REFERENCE QUESTIONNAIRE

Name of Applicant _____

Name of Person Completing Questionnaire: _____

Address: _____

Daytime Phone Number: _____

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8. Do you recommend that the applicant be issued a concealed weapons permit?
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10. Are you a relative or present/ past employer of the applicant?

11. How do you know the applicant?

I do affirm that all facts and statements contained herein are true and complete. I made this statement freely without hope or benefit or reward, without threat of punishment, and with coercion, unlawful influence, or unlawful inducement. I understand that if I make a statement that I know to be false, I can be charged of "Unsworn Falsification to Authorities" in violation of M.C.A. 45-7-203

Signature of Personal Reference Completing Questionnaire

Date

Witness

Date

45-8-315. Definition. "Concealed weapon" means any weapon mentioned in 45-8-316 through 45-8-318 and 45-8-321 through 45-8-328 that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon, except that for purposes of 45-8-321 through 45-8-328, concealed weapon means a handgun or a knife with a blade 4 or more inches in length that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon.

History: En. Sec. 6, Ch. 74, L. 1919; re-en. Sec. 11307, R.C.M. 1921; re-en. Sec. 11307, R.C.M. 1935; Sec. 94-3530, R.C.M. 1947; redes. 94-8-215 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-215; amd. Sec. 9, Ch. 759, L. 1991.

45-8-316. Carrying concealed weapons. (1) A person who carries or bears concealed upon the individual's person a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife having a blade 4 inches long or longer, razor, not including a safety razor, or other deadly weapon shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or both.

(2) A person who has previously been convicted of an offense, committed on a different occasion than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of 1 year could have been imposed and who carries or bears concealed upon the individual's person any of the weapons described in subsection (1) shall be punished by a fine not exceeding \$1,000 or be imprisoned in the state prison for a period not exceeding 5 years, or both.

History: En. Sec. 1, Ch. 74, L. 1919; re-en. Sec. 11302, R.C.M. 1921; re-en. Sec. 11302, R.C.M. 1935; Sec. 94-3525, R.C.M. 1947; redes. 94-8-210 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 36, Ch. 359, L. 1977; amd. Sec. 1, Ch. 411, L. 1977; R.C.M. 1947, 94-8-210; amd. Sec. 1708, Ch. 56, L. 2009.

45-8-317. Exceptions. (1) Section 45-8-316 does not apply to:

(a) any peace officer of the state of Montana or of another state who has the power to make arrests;

(b) any officer of the United States government authorized to carry a concealed weapon;

(c) a person in actual service as a member of the national guard;

(d) a person summoned to the aid of any of the persons named in subsections (1)(a) through (1)(c);

(e) a civil officer or the officer's deputy engaged in the discharge of official

Blaine County Sheriff's Office CCW M.C.A. Addendum 2015 Legislative Session Rev. 05-2017
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business;

(f) a probation and parole officer authorized to carry a firearm under 46-23-1002;

(g) a person issued a permit under 45-8-321 or a person with a permit recognized under 45-8-329;

(h) an agent of the department of justice or a criminal investigator in a county attorney's office;

(i) a person who is outside the official boundaries of a city or town or the confines of a logging, lumbering, mining, or railroad camp or who is lawfully engaged in hunting, fishing, trapping, camping, hiking, backpacking, farming, ranching, or other outdoor activity in which weapons are often carried for recreation or protection;

(j) the carrying of arms on one's own premises or at one's home or place of business; or

(k) the carrying of a concealed weapon in the state capitol by a legislative security officer who has been issued a permit under 45-8-321 or with a permit recognized under 45-8-329.

(2) With regard to a person issued a permit under 45-8-321, the provisions of 45-8-328 do not apply to this section.

History: En. Sec. 3, Ch. 74, L. 1919; re-en. Sec. 11304, R.C.M. 1921; re-en. Sec. 11304, R.C.M. 1935; Sec. 94-3527, R.C.M. 1947; amd. Sec. 1, Ch. 63, L. 1969; amd. Sec. 1, Ch. 54, L. 1971; redes. 94-8-212 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 37, Ch. 359, L. 1977; R.C.M. 1947, 94-8-212; amd. Sec. 2, Ch. 639, L. 1989; amd. Sec. 10, Ch. 759, L. 1991; amd. Sec. 195, Ch. 42, L. 1997; amd. Sec. 1, Ch. 476, L. 1999; amd. Sec. 1, Ch. 384, L. 2011.

45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant:

(a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

(b) has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more;

(c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:

(i) a crime punishable by more than 1 year of incarceration; or

(ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without

consent;

(d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction;

(e) has a warrant of any state or the federal government out for the applicant's arrest;

(f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision;

(g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or

(h) was dishonorably discharged from the United States armed forces.

(2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has reasonable cause to believe that the applicant is mentally ill, mentally disordered, or mentally disabled or otherwise may be a threat to the peace and good order of the community to the extent that the applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written statement of the reasonable cause upon which the denial is based.

(3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required by the sheriff to demonstrate familiarity with a firearm by:

(a) completion of a hunter education or safety course approved or conducted by the department of fish, wildlife, and parks or a similar agency of another state;

(b) completion of a firearms safety or training course approved or conducted by the department of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association;

(c) completion of a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency;

(d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

(e) evidence that the applicant, during military service, was found to be qualified to operate firearms, including handguns.

(4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other document that attests to completion of the course and can be verified through contact with the entity or instructor that

conducted the course creates a presumption that the applicant has completed a course described in subsection (3).

(5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or entity to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the applicant's familiarity with a firearm.

(6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to issuance of a concealed weapons permit if otherwise eligible.

History: En. Sec. 1, Ch. 759, L. 1991; amd. Sec. 1, Ch. 408, L. 1995; amd. Sec. 3, Ch. 581, L. 1999; amd. Sec. 7, Ch. 332, L. 2009; amd. Sec. 9, Ch. 161, L. 2015

45-8-329. Concealed weapon permits from other states recognized -- advisory council. (1) A concealed weapon permit from another state is valid in this state if:

(a) the person issued the permit has the permit in the person's immediate possession;

(b) the person bearing the permit is also in possession of an official photo identification of the person, whether on the permit or on other identification; and

(c) the state that issued the permit requires a criminal records background check of permit applicants prior to issuance of a permit.

(2) The attorney general shall develop and maintain a list of states from which permits are recognized under this section for the use by law enforcement agencies in this state.

(3) A determination or declaration of a Montana government entity, official, or employee is not necessary to the existence and exercise of the privilege granted by this section.

(4) The governor shall establish a council, composed of interested persons, including law enforcement personnel and gun owners, to advise the governor on and pursue concealed weapon permit issues.

History: En. Sec. 3, Ch. 408, L. 1995; amd. Sec. 2, Ch. 476, L. 1999.

45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) Except for legislative security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

(a) portions of a building used for state or local government offices and related areas in the building that have been restricted;

Blaine County Sheriff's Office CCW M.C.A. Addendum 2015 Legislative Session Rev. 05-2017
Attention: THE CWP PERMIT HOLDER IS RESPONSIBLE TO ENSURE FUTURE MCA UPDATE COMPLIANCE

(b) a bank, credit union, savings and loan institution, or similar institution during the institution's normal business hours. It is not an offense under this section to carry a concealed weapon while:

(i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or

(ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person is inside the enclosure used for the institution's financial services or is using the institution's financial services.

(c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises.

(2) It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both.

History: En. Sec. 8, Ch. 759, L. 1991; amd. Sec. 1, Ch. 572, L. 1999; amd. Sec. 2, Ch. 384, L. 2011.

45-8-325. Permittee change of county of residence -- notification to sheriffs and chief of police. A person with a permit to carry a concealed weapon who changes the person's county of residence shall within 10 days of the change inform the sheriffs of both the old and new counties of residence of the change of residence and that the person holds the permit. If the person's residence changes either from or to a city or town with a police force, the person shall also inform the chief of police in each of those cities or towns that has a police force.

History: En. Sec. 5, Ch. 759, L. 1991; amd. Sec. 1709, Ch. 56, L. 2009.

45-8-327. Carrying concealed weapon while under influence. A person commits the offense of carrying a concealed weapon while under the influence if the person purposely or knowingly carries a concealed weapon while under the influence of an intoxicating substance. It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both.

History: En. Sec. 7, Ch. 759, L. 1991; amd. Sec. 1710, Ch. 56, L. 2009.

45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions. (1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

Blaine County Sheriff's Office CCW M.C.A. Addendum 2015 Legislative Session Rev. 05-2017
Attention: THE CWP PERMIT HOLDER IS RESPONSIBLE TO ENSURE FUTURE MCA UPDATE COMPLIANCE

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(5) As used in this section:

(a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109.

(b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

History: En. Sec. 1, Ch. 435, L. 1997; amd. Sec. 6, Ch. 581, L. 1999.

45-8-330. (Temporary) Exemption of concealed weapon permittee from federal handgun purchase background check and waiting period. A person possessing a concealed weapon permit is:

(1) considered to have a permit constituting completion of the background check required by 18 U.S.C. 921 through 925A; and

(2) exempt from that act's 5-day waiting period for the purchase of a handgun. (*Subsections (1) and (2) terminate contingent on the elimination of federal statutory or case law requirements--sec. 5, Ch. 408, L. 1995.*)

History: En. Sec. 4, Ch. 408, L. 1995.

45-8-323. Denial of renewal -- revocation of permit. A permit to carry a concealed weapon may be revoked or its renewal denied by the sheriff of the county in which the permittee resides if circumstances arise that would require the sheriff to refuse to

grant the permittee an original license. A decision to deny an applicant a renewal must be made within 60 days after the filing of an application.

History: En. Sec. 3, Ch. 759, L. 1991; amd. Sec. 2, Ch. 134, L. 2015.

45-8-326. Immunity from liability. A sheriff, employee of a sheriff's office, or county is not liable for damages in a civil action by a person or entity claiming death, personal injury, or property damage arising from alleged wrongful or improper grant of, renewal of, or failure to revoke a permit to carry a concealed weapon, except for actions that constitute willful misconduct or gross negligence.

History: En. Sec. 6, Ch. 759, L. 1991

45-3-101. Definitions. (1) "Force likely to cause death or serious bodily harm" within the meaning of this chapter includes but is not limited to:

(a) the firing of a firearm in the direction of a person, even though no purpose exists to kill or inflict serious bodily harm; and

(b) the firing of a firearm at a vehicle in which a person is riding.

(2) "Forcible felony" means any felony which involves the use or threat of physical force or violence against any individual.

History: En. 94-3-101 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-101

45-3-102. Use of force in defense of person. A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary for self-defense or the defense of another against the other person's imminent use of unlawful force. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent imminent death or serious bodily harm to the person or another or to prevent the commission of a forcible felony.

History: En. 94-3-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-102; amd. Sec. 1643, Ch. 56, L. 2009.

45-3-103. Use of force in defense of occupied structure. (1) A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the use of force is necessary to prevent or terminate the other person's unlawful entry into or attack upon an occupied structure.

(2) A person justified in the use of force pursuant to subsection (1) is justified in the use of force likely to cause death or serious bodily harm only if:

(a) the entry is made or attempted and the person reasonably believes that the force

is necessary to prevent an assault upon the person or another then in the occupied structure; or

(b) the person reasonably believes that the force is necessary to prevent the commission of a forcible felony in the occupied structure.

History: En. 94-3-103 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-103; amd. Sec. 1644, Ch. 56, L. 2009; amd. Sec. 4, Ch. 332, L. 2009.

45-3-104. Use of force in defense of other property. A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary to prevent or terminate the other person's trespass on or other tortious or criminal interference with either real property, other than an occupied structure, or personal property lawfully in the person's possession or in the possession of another who is a member of the person's immediate family or household or of a person whose property the person has a legal duty to protect. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent the commission of a forcible felony.

History: En. 94-3-104 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-104; amd. Sec. 1645, Ch. 56, L. 2009.

45-3-105. Use of force by aggressor. The justification described in 45-3-102 through 45-3-104 is not available to a person who:

(1) is attempting to commit, committing, or escaping after the commission of a forcible felony; or

(2) purposely or knowingly provokes the use of force against the person, unless:

(a) the force is so great that the person reasonably believes that the person is in imminent danger of death or serious bodily harm and that the person has exhausted every reasonable means to escape the danger other than the use of force that is likely to cause death or serious bodily harm to the assailant; or

(b) in good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that the person desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

History: En. 94-3-105 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-105; amd. Sec. 1646, Ch. 56, L. 2009.

45-3-110. No duty to summon help or flee. Except as provided in 45-3-105, a person who is lawfully in a place or location and who is threatened with bodily injury or loss of life has no duty to retreat from a threat or summon law enforcement assistance prior to using force. The provisions of this section apply to a person offering evidence of justifiable use of force under 45-3-102, 45-3-103, or 45-3-104.

History: En. Sec. 1, Ch. 332, L. 2009.

45-3-111. Openly carrying weapon -- display -- exemption. (1) Any person who is not otherwise prohibited from doing so by federal or state law may openly carry a weapon and may communicate to another person the fact that the person has a weapon.

(2) If a person reasonably believes that the person or another person is threatened with bodily harm, the person may warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon.

(3) This section does not limit the authority of the board of regents or other postsecondary institutions to regulate the carrying of weapons, as defined in 45-8-361(5)(b), on their campuses.

History: En. Sec. 2, Ch. 332, L. 2009.

45-3-108. Use of force in resisting arrest. A person is not authorized to use force to resist an arrest that the person knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful and the arrest in fact is unlawful.

History: En. 94-3-108 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-108; amd. Sec. 1649, Ch. 56, L. 2009.