

ORDINANCE NO. 2003- 07

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, SETTING FORTH A COUNTY-WIDE CURFEW INVOLVING MINORS; CURFEW VIOLATIONS BY PARENTS, GUARDIANS OR OTHER PERSONS HAVING LEGAL CUSTODY OR CARE OF MINORS, PENALTY PROVISIONS, AND ENFORCEMENT PROVISIONS OF CURFEW VIOLATIONS FOR UNINCORPORATED ARCHULETA COUNTY

WHEREAS, pursuant to C.R.S. §30-15-401, the Board of County Commissioners of Archuleta County has the power to adopt ordinances for control of those matters of purely local concern; and

WHEREAS, pursuant to C.R.S. § 30-15-401 (1) (b), (1) (d) and (1) (d.5), matters of purely local concern include the prevention and suppression of riots, routs, affrays, disturbances and disorderly assemblies in any public or private place; the restraining and punishing of loiterers; and to discourage juvenile delinquency through the imposition of curfews applicable to juveniles and the restraint and punishment of loitering by juveniles; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Archuleta County, that there have been problems with juvenile loiterers, disorderly assemblies and disturbances caused by juveniles; and,

WHEREAS, it is the opinion of the Board of County Commissioners of Archuleta County, that in order to preserve the public peace, health, safety, and welfare of the citizens of Archuleta County, they should take the following action.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, AS FOLLOWS:

Section I. VIOLATIONS INVOLVING MINORS BY PARENTS, GUARDIANS, OR OTHER PERSONS HAVING LEGAL CUSTODY OR CARE OF MINORS

It is unlawful, and a strict liability offense, for any parent, guardian, or other person, having legal care or custody of any juvenile who has not reached his or her eighteenth birthday, to fail to prevent such juvenile from being or remaining upon any street or alley, or from being or remaining in any establishment open to the public, in the unincorporated areas of Archuleta County after the hour of 10:30 o'clock P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, or after the hour of 12:00 o'clock midnight on any Friday, Saturday, or any day immediately preceding an official Colorado State holiday, or before the hour of 5:00 o'clock A.M. on any day, except when such juvenile is:

1. Accompanied by a parent, guardian, or adult person who had reached his or her twenty-first birthday, who has the legal care or custody of such juvenile; or
2. Accompanied by a person who has reached his or her eighteenth birthday, when such



person has in his or her possession at the time of contact by a peace officer a prior written care or custody consent from the juvenile's parents, guardian, or other person having legal care or custody of such juvenile.

The following affirmative defenses may be raised by the defendant by the presentation of some credible evidence supporting the defense claimed. The guilt of the defendant must then be established beyond a reasonable doubt as to the defense raised as well as to all other elements of the offense.

At the time of violation, the juvenile was:

1. Legally emancipated; or
2. Engaged in an activity necessary to lawful employment, or traveling directly to or from the juvenile's home for a lawful employment purpose; or
3. Traveling directly to or from the juvenile's home for school activity purposes, when such activity was authorized by school officials, and when the juvenile had the consent to attend such activity from a parent or guardian who had the legal care or custody of such juvenile; or
4. Engaged in an activity necessary to assist in an emergency involving a person's illness, injury, or death, or engaged in an activity necessary to prevent damage to property, when such property has a value of more than one-hundred dollars; and
5. Traveling directly to or from the juvenile's home for a religious activity purpose, when the juvenile had the consent to attend such activity from a parent or guardian who had the legal care or custody of such juvenile; or
6. Traveling in a motor vehicle throughout Archuleta County, Colorado while engaged in lawful intrastate or interstate travel, with the consent of a parent or guardian who had the legal care or custody of such juvenile; or
7. Prevented from complying with this ordinance by circumstances beyond the control of such juvenile; or
8. Reported as a missing person, runaway, or juvenile out of control, when such report was made prior to the juvenile's violation, by a parent, guardian, or other person having legal care or custody of such juvenile. For the purposes of this subsection, a juvenile qualifies as out of control only after diligent good faith efforts to prevent violations of this Curfew Ordinance have been made by the reporting parent, guardian, or other person having legal care or custody of such juvenile.

Section II. VIOLATIONS

1. Violation of any provisions of this Ordinance shall be a Class 2 petty offense and shall be punishable as follows:
2. For the first violation, the Person shall be assessed a fine of not less than \$50.00 and not more than \$100.00, except that if a penalty assessment is issued as provided by Section II.e, the fine shall be the minimum.



- 3. For a second offense by the same Person, the Person shall be assessed a fine of not less than \$100.00 and not more than \$250.00 except that if a penalty assessment is issued as provided by Section II.e, the fine shall be the minimum.
- 4. For a third or any subsequent offense thereafter by the same Person, the Person shall be punished by a fine of not less than \$250.00 but not more than \$500.00 for each separate offense.
- 5. A summons and complaint issued for the first or second violation of the provisions of this Ordinance may also contain a penalty assessment notice pursuant to C.R.S. §16-2-201, as amended, requiring the Defendant to appear at the place, time and date specified or, in lieu thereof, to pay the specified fine in person or by mail at the place and within the time specified in the notice. Payment of the specified fine shall constitute acknowledgment of guilt of the offense charged.
- 6. In addition to any other penalty, persons convicted of a violation of this Ordinance shall be subject to a surcharge of \$10.00 paid to the Clerk of the Court for credit to the victims and witnesses assistance and law enforcement fund for the Sixth Judicial District.

Section III. ENFORCEMENT

Any Level I peace officer, as such term is defined in C.R.S. §18-1-901(1), is authorized to enforce the provisions of this Ordinance.

Section IV. DISPOSITION OF FINES

All fines for violations of this ordinance shall be paid into the General Fund for Archuleta County upon convictions.

Section V. SEVERABILITY

If any one or more of the provisions of this ordinance are determined by a court of law to be invalid, such determination shall not affect the validity of the remaining provisions of this ordinance.

Section VI. SAFETY CLAUSE

The ordinance shall take effect immediately upon adoption. This Ordinance is necessary for the immediate preservation of the public safety and public health, due in part to the need to control activity subject to this ordinance as soon as possible.

APPROVED AND ADOPTED THIS 20th DAY OF May, 2003.

**Board of County Commissioners
Archuleta County, Colorado**

Alden Ecker

Alden Ecker, Chairman

Mamie R. Lynch

Mamie R. Lynch

Wm. M. Downey

Wm. M. Downey

I, June Madrid, Clerk and Recorder of Archuleta County and Clerk to the Board of County Commissioners, do hereby attest and certify that the Ordinance was introduced, read and ordered published at a regular meeting of the Board of County Commissioners on the ____ day of _____, 2003. The Ordinance was published in full in the Pagosa Sun on May _____, 2003. At a public hearing on May 20, 2003, the Ordinance was adopted, approved and those portions that were amended were ordered published in the Pagosa Sun.



June Madrid by Noun Strupp, Deputy
June Madrid, Archuleta County Clerk and Recorder

INTRODUCED, READ AND ADOPTED ON FIRST READING on April 29 _____, 2003, and ordered published in the PAGOSA SUN. Published on May 8, 2003 _____.

ADOPTED ON SECOND AND FINAL READING on May 20, 2003 and those amended portions of the Ordinance ordered published in the PAGOSA SUN. Published on May 29, 2003 _____.