

ORDINANCE NO. 2007 - 1

AN ORDINANCE PROVIDING FOR AND ESTABLISHING A CURFEW FOR MINORS, REGULATING THE USE OF STREETS AND ALLEYS DURING NOCTURNAL HOURS; PROVIDING POLICE PROCEDURES; AND PROVIDING FOR PENALTIES WITH RESPECT THERETO.

DECLARATION OF POLICY:

WHEREAS, the Board of Trustees of the Town of La Jara, County of Conejos and State of Colorado, hereby finds and determines that curfew for minors have been over the years a significant factor in minimizing juvenile delinquency, and

WHEREAS, the Board of Trustees also finds that a curfew would meet a very real local need within the Town of La Jara in that it will promote the public peace, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA, COLORADO, AS FOLLOWS:

ARTICLE I

SECTION 1.1 DEFINITIONS -- For purposes of the Ordinance, the following definitions shall apply:

- (A) *Curfew hours* means:
 - (1) 11:00 P.M. on any Monday, Tuesday, Wednesday, or Thursday, or until 5:00 A.M. the following day; and
 - (2) 12:01 A.M. on any Friday, Saturday, or Sunday until 5:00 A.M. on the same day.

- (B) *Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but it not limited to: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

- (C) *Establishment* means any privately-owned place of business operated for a profit for which the public is invited, including, but not limited to, place of amusement or entertainment.

- (D) *Guardian* means:
 - (1) A person who, under court order, is the guardian of a minor, or

- (2) A person who otherwise has legal custody of a minor; or
 - (3) a public or private agency with which a minor has been placed by a court of competent jurisdiction.
- (E) *Knowingly* means knowledge which a parent, guardian or other person having legal custody of a person who has not reached his or her eighteenth birthday should reasonably be expected to have concerning the whereabouts of said minor.
- (F) *Minor* means a person who is under eighteen years of age.
- (G) *Parent* means a person who is the natural parent, adoptive parent, step-parent, or foster parent.
- (H) *Public Place* means any place to which the public or a substantial group of the public has access and includes, but it not limited to, streets, highways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, or transport facilities.
- (I) *Remain* means to:
- 1. Linger or stay;
 - 2. Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (J) *Serious bodily injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any body member or organ.

ARTICLE II

SECTION 2.1 CURFEW FOR MINORS, UNLAWFUL ACTS BY PARENTS OR GUARDIANS; OTHER PROVISIONS

- 2.1.1 It shall be unlawful for a minor to be in any public place or on the premises of any establishment during curfew hours as defined above unless he or she is:
- (A) Accompanied by his or her parent or guardian
 - (B) In the custody of and accompanied by a person who has reached eighteen (18) years of age, but only if the person possesses the written consent of the minor's parent or guardian; or,
 - (C) In a motor vehicle currently being used in interstate travel; or
 - (D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.

2.1.2 It shall be unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow, the minor to be in or remain in any public place or on the premises of any establishment during curfew hours unless the minor is:

- (A) Accompanied by the minor's parent or guardian; or
- (B) In the custody of an accompanied by a person who has reached eighteen (18) years of age, but only if the person possesses the written consent of the minor's parent or guardian; or
- (C) In a motor vehicle currently being used in interstate travel; or
- (D) Engaged in an employment activity, or going to or returning home from an employment activity.

2.1.3 It shall be unlawful for any person over the age of seventeen (17) years to aid, abet, encourage or assist any minor under the age of seventeen (17) years to violate the provisions of Section 2.01 hereof.

2.1.4 Any person violating the provisions of Section 2.1.1 shall be subject to apprehension by any policeman on duty or other authorized person without warrant; **PROVIDED, HOWEVER,** that no such minor person shall be placed in confinement until the parent or guardian shall have been notified of such police custody. Upon such notice being given, the custody of such minor person shall forthwith be transferred to such parent, guardian or legal custodian upon satisfactory assurance to the apprehending officer or his superior that such parent, guardian or legal custodian shall appear with the minor child in the Municipal Court of the Town of La Jara at the time designated.

2.1.5 It shall be an affirmative defense to the charges under Sections 2.1.1 of this Ordinance that the minor was:

- (A) Involved in an emergency;
- (B) On the sidewalk abutting the minor's residence or abutting the residence of next-door neighbor if the neighbor did not complain to the police department about the minor's presence; or
- (C) Attending an official school, religious, or recreational activity supervised by adults and sponsored by the Town, a civic organization, or another similar entity; or
- (D) Going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the Town, a civic organization, religious organization, or another similar entity; or
- (E) On an errand at the direction of his or her parent, guardian, without any detour or stop.

2.1.6 It shall be an affirmative defense to the charges under sections 2.01 or 3.01 of this Ordinance that the minor has been determined by a court of competent

jurisdiction prior to the alleged violation to be beyond the control of the parent or guardian.

2.1.7 It shall be the duty of the Municipal Judge of the Town of La Jara to hearing and determine the complaints filed pursuant to Sections 2.1.1; 2.1.2, and 2.1.3 as in other cases., and it shall be the duty of the Municipal Judge to report for further investigations to the Juvenile Court of Conejos County, Colorado, the names of all minor persons violating the curfew provisions for the second or more times, together with the names of the parents, guardians, or legal custodians of such minor person.

ARTICLE III

SECTION 3.1 -- PENALTIES

3.1.1 Every minor person convicted of a violation of any of the provisions stated or adopted by this Ordinance shall be fined not less than \$50.00 for the first conviction thereof, not less than \$150.00 for the second conviction thereof; and not less than \$300.00 for the third and all subsequent convictions thereof, including all relevant court costs, such fine and court costs to be paid not later than the next scheduled hearing date for the next Court's hearing and/or arraignment date. The fines set forth herein are mandatory and the Court shall have no discretion to suspend or defer the fine or fines.

3.1.2 Every adult person convicted of a violation of any of the provisions stated or adopted by this Ordinance shall be fined not less than \$50.00 for the first conviction thereof, not less than \$150.00 for the second conviction thereof; and not less than \$300.00 for the third and all subsequent convictions thereof, including all relevant court costs, such fine and court costs to be paid not later than the next scheduled hearing date for the next Court's hearing and/or arraignment date. The fines set forth herein are mandatory and the Court shall have no discretion to suspend or defer the fine or fines.

3.1.3 Upon conviction of a violation of this Ordinance, the Municipal Court shall have authority to impose useful public service hours of not less than 20 hours upon the first conviction; 40 hours of useful public service upon second and subsequent convictions.

3.1.4 In the event useful public service is imposed, the Municipal Court shall assess costs for the administration of the useful public service in an amount not less than administrative costs, such to include, but not limited to, relevant insurance coverage costs. Payment of said costs shall be deemed mandatory and necessary for the administration of the useful public service program and shall not be suspended.

ARTICLE IV

SECTION 4.1 - ADDITIONAL PROVISIONS

4.1.1 If any part, section, subsection of this Ordinance is, for any reasons, held invalid, such decision shall not affect the validity of the remaining sections of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance in each part, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses, or phrases be declared invalid.

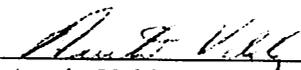
SECTION 4.2 - REPEAL

4.2.1 Any or all ordinances or parts of ordinances of the Town of La Jara in conflict or inconsistent herewith are hereby repealed, PROVIDED, HOWEVER, that the repeal of any ordinance or parts or ordinances of the Town of La Jara shall not revive any other sections of any ordinance or ordinances heretofore repealed or superseded. Ordinance No. 1978-1 AN ORDINANCE PROVIDING FOR AND ESTABLISHING A CURFEW FOR MINORS; REGULATING THE USE OF STREET AND ALLEYS DURING NOCTURNAL HOURS; PROVIDING POLICE PROCEDURES; AND PROVIDING FOR PENALTIES WITH RESPECT THERETO as amended by Ordinance No. 1980-2 as adopted by the Board of Trustees of the Town of La Jara is specifically repealed in its entirety.

SECTION 4.3 - EFFECTIVE DATE

4.3.1 WHEREAS, in the opinion of the Board of Trustees of the Town of La Jara, an emergency exists and this ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare, this Ordinance shall be in full force and effect immediately after its final passage and publication.

INTRODUCED, READ, AND PASSED at a regular meeting of the Board of Trustees as which a quorum was present on the 9th day of August, 2007 and ordered published in accordance with the provisions of C.R.S. 31-16-105.


Austin Valdez, Mayor

(S E A L)

ATTESTED:

Janice E. Coombs

Janice E. Coombs, La Jara Town Clerk