

I hereby certify that this instrument
was filed for record on the 8th
day of June A.D. 1998
at 100-702 M. and duly
recorded in book 204 of the records
of Grant County
at page 100-702

Witness my hand and seal of office
Henry Madrid, Clerk
COUNTY CLERK, GRANT CO., N.M.
Spencer Clegg Deputy

ORDINANCE #95-12-07A

COUNTY OF GRANT, NEW MEXICO

AN ORDINANCE PERTAINING TO
CURFEW FOR MINORS

1. **LEGISLATIVE PURPOSE:** The purpose of this Ordinance is to address juvenile criminal activity. Grant County is experiencing significant problems with juveniles engaged in gang activity, placing graffiti upon public and private structures, rock throwing at homes, persons and vehicles, threatening older citizens and younger children, burglaries, open drug and alcohol consumption and abuse in public places, verbal abuse of individuals in residential neighborhoods, hindering pedestrian and vehicle traffic on roadways, public sidewalks, roads, streets and other public places, arson, setting fires to trash cans, abuse of handicapped persons and shoplifting. This Ordinance is designed to provide peace officers with an additional means of addressing such juvenile criminal activity.

2. **DEFINITIONS:** For the purpose of this Ordinance, the following terms, phrases, words, and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- B. "Guardian" means:
 - (1) a person who, under court order, is the guardian of the person of a minor; or,
 - (2) a public or private agency with whom a minor has been placed by the court.
- C. "Minor" means any person under 18 years of age.
- D. "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- E. "Parent" means a person who is:
 - (1) a natural parent, adoptive parent, or step-parent of another person; or,
 - (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- F. "Public Place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, alleys, parks, playgrounds, and the common areas of schools, hospitals, apartment houses, office buildings, places of amusement and entertainment, transport facilities and shops.

G. "Remain" means to:
(1) linger or stay; or,
(2) fail to leave premises when requested to do so by a law enforcement officer or the owner, operator, or other person in control of the premises

H. "Serious Bodily Injury" means bodily injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

3. **CURFEW FOR MINORS:** It shall be unlawful for any minor, to remain in public places between the early morning hours of 12:00 midnight and 5:00 a.m. Provided, however, this section shall not apply to situations where a minor is:

A. accompanied by a parent, guardian or other adult person having the care and custody of such minor;

B. responding to or involved in an emergency;

C. upon an errand at the direction of a parent or guardian, without any detour or stop;

D. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

E. attending an official school, religious, or other recreational activity supervised by adults and sponsored by a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning home from, without detour or stop, an official school, religious, or other recreational activity, supervised by adults and sponsored by a civic organization, or other similar entity that takes responsibility for the minor;

F. exercising first amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly;

G. married or had been married or had disabilities of minority removed in accordance with Chapter 26 of the New Mexico Human Rights Act;

H. attending and watching a movie at a movie theater or going to or returning home from a movie theater without any detour or stop.

4. **PARENTAL RESPONSIBILITY:** It shall be unlawful for the parent or guardian of a minor to knowingly permit, or by insufficient control allow the minor to remain in any public place within the County between the early morning hours of 12:00 midnight and 5:00 a.m.

5. **MINOR PENALTY:** Violation of Section 3 of this Ordinance by a minor shall be punishable by a fine which shall not exceed \$300 or by detention in a certified detention facility for a period of time not to exceed ninety (90) days, or both fine and detention.

6. **ADULT PENALTY:** Violation of Section 4 of this Ordinance shall be punishable by a fine which shall not exceed \$300 or by imprisonment for a period of time not to exceed ninety (90) days, or both fine and imprisonment.

7. **ENFORCEMENT:** It shall be the duty of the Sheriff's Department to enforce the provisions of this Ordinance upon proper information. Before taking any enforcement action under this Section, a law enforcement officer of the Sheriff's Department shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation under this Section

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unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, none of the justifying situations found in Section 3 above are present.

8. **REPEALER:** This Ordinance hereby repeals and supersedes all previous Ordinances and/or parts of Ordinances dealing with the same subject matter included herein.

9. **SAVINGS CLAUSE:** If any of the sections, subsections, sentences, clauses or phrases of the Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be thereby affected since it is the express intent of the County Commission to pass each section, phrase, paragraph and word separately.

PASSED, APPROVED AND ADOPTED by the Board of County Commissioners of Grant County, this 7th day of December, 1995.

Manuel T. Serna
Manuel T. Serna, Chairman

Zeke Santa Maria
Zeke Santa Maria, Member

Carl W. Scholl
Carl W. Scholl, Member

ATTEST:

Reha Madrid-Cope
Reha Madrid-Cope, County Clerk