

GILA COUNTY CURFEW ORDINANCE NO. 13-____

AN ORDINANCE OF THE GILA COUNTY BOARD OF SUPERVISORS RELATING TO CURFEW HOURS FOR MINORS IN ORDER TO REDUCE JUVENILE CRIME, PROTECT THE CITIZENS OF GILA COUNTY, AND REINFORCE PARENTAL AUTHORITY.

PURSUANT TO A.R.S. §11-251 AND §11-251.05, BE IT ORDAINED BY THE GILA COUNTY BOARD OF SUPERVISORS AS FOLLOWS:

SECTION I – DEFINITIONS:

1. “Adult” means a person of 18 years of age or older.
2. “County” means the County of Gila, Arizona, and includes all unincorporated areas of the County of Gila under the jurisdiction of the County of Gila, and excludes all incorporated cities, towns and sovereign Indian nations located within the County.
3. “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 national disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life or property.
4. “GCO 13-____” means Gila County Ordinance No. 13-____ and its subsections.
5. “Guardian” means a person who, under court order, has the legal authority and duty to care for another person because of infancy (having not attained the age of 18 years), incapacity, or disability. A guardian may be a public or private agency with whom a minor has been placed by a court.
6. “Insufficient Control” means failure to exercise reasonable care and diligence in the supervision of a juvenile.
7. “Minor means any person under eighteen (18) years of age.
8. “Parent” means a person who is a natural or adoptive mother or father, or a step-mother or step-father of at least eighteen (18) years of age who is authorized by a natural or adoptive mother or father to have the care and custody of a minor.
9. “Remain” means to linger or stay or fail to leave premises when requested to do so by a law enforcement officer or by the owner, operator or authorized person in control of the premises.
10. “Separate Offense” means an offense arising out of the same event as another offense but containing some differences in elements of proof. A person may be tried, convicted and sentenced for each separate offense.

11. "Supervisory Custody" means being held or kept under the supervision of an adult who is charged or directed by property authority with holding or keeping a minor under supervision.

SECTION II – OFFENSES:

1. It is unlawful for any minor under the age of eighteen (18) years to be or remain in, about, or upon any place in the County away from the dwelling house or usual abode of said minor between the hours of 10:00 p.m. and 6:00 a.m. seven days a week.
2. It is unlawful for a parent or guardian or an adult having supervisory custody of a minor to knowingly permit, or by insufficient control, allow a minor to violate Gila County Ordinance No. 12-__ (II) (1).

SECTION III – DEFENSES:

It is a defense to prosecution under GCO 13-__(II) (1) or (2) that the minor was:

1. Accompanied by the minor's parent, guardian or an adult having supervisory custody.
2. With prior permission of the parent or guardian, or an adult having supervisory custody, in a motor vehicle involved in interstate travel.
3. With prior permission of the parent or guardian, or an adult having supervisory custody, in an employment activity or going to or returning home from an employment activity without any detour or stop.
4. Involved in an emergency.
5. With prior permission of the parent or guardian, or an adult having supervisory custody, attending an official school, religious or other recreational activity supervised by adults and sponsored by any school district, governmental entity, a civic organization or other similar entity that takes responsibility for the minor, or going to or returning from without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by any school district, governmental entity, a civic organization or other similar entity that takes responsibility for the minor.
6. With prior permission of the parent or guardian, or an adult having supervisory custody, exercising the First Amendment right of free exercise of religion or freedom of speech protected by the United States Constitution.
7. With prior permission of the parent or guardian, or an adult having supervisory custody, was engaged in reasonable, legitimate and specific business and/or activity.
8. Married or had been married, or had disabilities of a minor removed, or emancipation ordered by a court of competent jurisdiction.

SECTION IV – IGNORANCE NOT A DEFENSE:

It shall not constitute a defense that the parent, guardian or an adult having supervisory custody, did not have actual knowledge of the presence of the minor away from the dwelling house or usual abode of said minor between the hours of 10:00 p.m. and 6:00 a.m. if the parent, guardian or the adult having supervisory custody, in the exercise of reasonable care and diligence, should have known of the presence of the minor away from the dwelling house or usual abode of said minor between the hours of 10:00 p.m. and 6:00 a.m.

SECTION V – PARENT OR GUARDIAN DUTIES UPON DEMAND FOR CUSTODY:

In addition to any other authority he/she may have, any law enforcement officer who arrests a minor for violation of any provision of this Ordinance is also empowered to demand that the parent, guardian or adult having supervisory custody of a minor take the minor into his/her custody. If the parent, guardian or adult having supervisory custody fails to respond or is unavailable, the officer shall then be empowered to take the minor home; provided, however, it shall be unlawful for any parent, guardian or adult having supervisory custody of the minor to willfully fail or refuse to take the minor into custody after such demand is made upon him/her.

SECTION VI – ENFORCEMENT:

Before taking any enforcement action under this Ordinance, a peace officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest under this Ordinance unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and conduct, no defense as provided in GCO 13-__ (III) (1-8) is clearly present.

SECTION VII – SEPARATE OFFENSE:

Each violation of GCO 13-__ (II) (1) and (2) shall constitute a separate offense.

SECTION VIII – PENALTIES:

1. First Offense: Any minor found in violation of this Ordinance for the first time shall be required to perform not more than 10 hours of community service.
2. Second Offense: Any minor found in violation of this Ordinance for a second time shall be required to perform not more than 20 hours of community service and pay a fine not to exceed one hundred (\$100.00) dollars.
3. Third Offense: Any minor found in violation of this Ordinance for a third or subsequent time shall be required to perform not more than 20 hours of community service and pay a fine not to exceed more than three hundred (\$300.00) dollars.
4. An adult found in violation of this Ordinance shall be guilty of a petty offense punishable by a fine of not more than three hundred (\$300.00) dollars.

SECTION IX – SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION X – PRESERVATION OF PEACE, HEALTH AND SAFETY:

Whereas, it is necessary for the preservation of the peace, health and safety of the minors and residents of Gila County, Arizona, this Ordinance shall become effective from and after thirty (30) days from the date of adoption by the Gila County Board of Supervisors.

PASSED AND ADOPTED by the Gila County Board of Supervisors this ____ day of ____, 2013.

GILA COUNTY BOARD OF SUPERVISORS:

By: _____
Tommie C. Martin, Chairman

APPROVED AS TO FORM:

ATTEST:

Bryan Chambers, Deputy County Attorney

Marian Shepherd, Chief Deputy Clerk