

## GILA COUNTY

### **CURFEW ORDINANCE NO. 2015-01**

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 SUPERVISION.

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 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 including United States Forest Service land, United States Bureau of Land Management land, and Arizona State Land Department land, **but excludes** all incorporated cities, towns and sovereign Indian nations and reservations 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 2015-01” means Gila County Ordinance No. 2015-01 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 Supervision” means failure of a parent, guardian, or adult with supervisory custody to exercise reasonable care and diligence in parenting/rearing a minor.
7. “Minor” means any person less than eighteen (18) years of age.
8. “Parent” means a person who is a natural, adoptive, or foster mother or father; or a step-mother or step-father of at least eighteen (18) years of age who is properly authorized 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 proper 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. Sunday through Wednesday and between the hours of 12:00 a.m. to 5:00 a.m. Thursday through Saturday.

#### **SECTION III – DEFENSES:**

It is a defense to prosecution under GCO 2015-01, Section II Paragraph 1 that the minor was:

1. Accompanied by the minor's parent, guardian or an adult having supervisory custody.
2. With prior written permission of the parent or guardian, or an adult having supervisory custody, in a motor vehicle involved in interstate travel.
3. With prior written 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 written 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 written 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 written 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 – 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 authorized and may demand that the parent, guardian or adult having supervisory custody of a minor, take the minor into his/her custody. 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 V – ENFORCEMENT:**

Before taking any enforcement action under this Ordinance, a law enforcement officer shall ask the apparent offender for proof of his/her age and the reason for being away from the apparent offender's dwelling house or usual abode. 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 do not qualify as a defense as provided in GCO 2015-01, Section III, Paragraphs 1 through 8.

#### **SECTION VI – SEPARATE OFFENSE:**

Each violation of GCO 2015-01, Section II, and Paragraph 1 shall constitute a separate offense.

#### **SECTION VII – 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. Community service may be substituted on an hour for hour basis for attendance at an officially recognized teen outreach program, counseling program or course on substance abuse.
2. Second Offense: Any minor found in violation of this Ordinance for a second time shall be required to perform not more than 10 hours of community service and pay a fine not to exceed one hundred (\$100.00) dollars. The fine may be waived if the minor provides written proof of attendance and completion of an officially recognized teen outreach program, counseling program or course on substance abuse.
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 10 hours of community service and pay a fine not to exceed more than five hundred (\$500.00) dollars.

#### **SECTION VIII – 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 IX – 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 3<sup>rd</sup> day of March 2015.

**GILA COUNTY BOARD OF SUPERVISORS:**

By: \_\_\_\_\_  
Michael A. Pastor, Chairman

**APPROVED AS TO FORM:**

**ATTEST:**

\_\_\_\_\_  
Bryan Chambers,  
Deputy County Attorney/Civil Bureau Chief

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Marian Sheppard, Clerk of the Board