

**ORDINANCE NO. 05-15**

**RELATING TO CURFEW HOURS FOR MINORS; ESTABLISHING PENALTIES FOR VIOLATIONS AND PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY.**

**WHEREAS, the purpose of this Ordinance is to preserve and secure the health and welfare of the general public, to reduce juvenile crime, to protect the citizens including children of the Town and to reinforce parental authority;**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, AS FOLLOWS:**

**SECTION 1. CURFEW HOURS FOR MINORS**

**A. Definition. In this section, unless the context requires otherwise:**

- 1. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action.**
- 2. "Guardian" means a person who, under court order, is the guardian of the person of a minor or a public or private agency with who a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.**
- 3. "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the juvenile.**
- 4. "Minor" means a person under eighteen years of age.**
- 5. "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.**

**B. Offenses:**

- 1. It is unlawful for any minor under the age of sixteen years to be in, about, or upon any place in the Town away from the property where the individual resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.**
- 2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about, or upon any**

place in the Town away from the property where the individual resides between the hours of 12:00 a.m. and 5:00 a.m.

3. It is unlawful for a parent, guardian, or other person having supervisory custody of the minor to knowingly permit, or by insufficient control, allow a minor to violate the provisions of Section B-1 or Section B-2 of this Ordinance, except as expressly provided herein. It shall not constitute a defense hereto that such parent, guardian, or other person having supervisory custody of the minor did not have knowledge of the minor's violation of Section B-1 or Section B-2, if such parent, guardian, or other person having responsibility for the minor, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the minor.
4. It is unlawful for parent, guardian, or other person having the care, custody, or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of Section B-1 or B-2 as listed.

**C. Defenses/Exceptions:**

It is a defense to prosecution under Subsection B, Including B-3, of this section that the minor was:

1. Accompanied by the minor's parent or guardian or an adult having supervisory custody of the minor.
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 a detour or stop by the most direct route.
4. On an emergency errand.
5. Specifically directed to the location by the parent or guardian or an adult having supervisory custody, on reasonable, legitimate business or some other activity, or going to or returning home from such business or activity.

6. **With prior permission of the parent or guardian or an adult having supervisory custody, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.**
7. **Married and 16 years of age or over, or in the military.**
8. **On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.**

**D. Enforcement:**

1. **Before taking any enforcement action under this section, an enforcement officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in Subsection C of this section is probably present.**
2. **In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of Section B-1 or Section B-2 is also hereby empowered to demand of the parent, guardian, or adult having supervisory custody that such parent, guardian, or other adult come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian, an adult having supervisory custody or other appropriate part to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.**

**SECTION 2. SEPARATE OFFENSES**

**Each violation of the provisions of Section B shall constitute a separate offense.**

**SECTION 3. PENALTIES**

1. **Any person who violates Section 1(B)(1), (2) or (4) of this ordinance is guilty of a Class 1 misdemeanor. This offense is designated as an incorrigible offense for minors under the jurisdiction of the Juvenile Court.**

- 2. Any person who violates Section 1(B)(3) of this ordinance shall be guilty of a petty offense.
- 3. No fine imposed for violation of this ordinance shall exceed the maximum provided by statute for a petty offense.

**SECTION 4. SEVERABILITY**

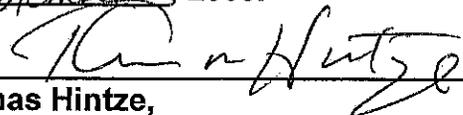
If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**SECTION 5. EMERGENCY CLAUSE**

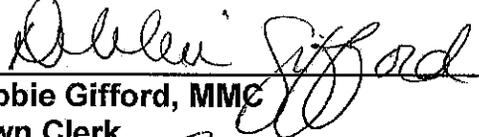
Whereas the immediate operation of the provisions of this ordinance are necessary for the preservation of the public peace, health and safety of the Town of Dewey-Humboldt, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage, adoption and approval by the Town of Dewey-Humboldt.

EFFECTIVE DATE: This Ordinance shall be effective 9-6-05

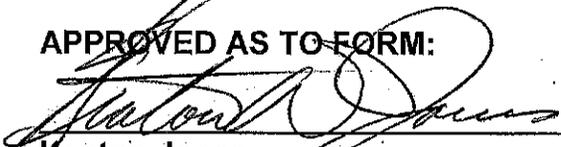
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Yavapai County, Arizona, this 6 day of September, 2005.

  
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Thomas Hintze,  
Mayor

ATTEST:

  
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Debbie Gifford, MMC  
Town Clerk

APPROVED AS TO FORM:

  
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Kenton Jones,  
Town Attorney