

## ORDINANCE NO. 2368

### AN ORDINANCE AMENDING CHAPTER 133 OF THE HERMISTON MUNICIPAL CODE RELATING TO CURFEW

**WHEREAS**, the City of Hermiston seeks to protect the safety and welfare of minors and promote school attendance as to those minors required to attend school; and

**WHEREAS**, the City's curfews should meet the City's interest in promoting the health, safety and welfare of the community while not placing excessive burdens on the rights of individuals; now therefore

#### THE CITY OF HERMISTON ORDAINS AS FOLLOWS:

(New language is in red and underlined and repealed language has a line through it.)

**Section 1.** Title XIII of the Hermiston Municipal Code is amended by amending Chapter 133 as follows:

#### **133.01 UNLAWFUL HOURS.**

##### **(A) Nighttime Curfew**

(1) It shall be unlawful for any person under the age of 16 years to be upon the streets, alleys, public squares, parks, sidewalks, or in any public place in the city between the hours of 10:00 p.m. and 5:30 a.m. during any day of the year, unless the child is in the custody of or accompanied by a parent, ~~or~~ guardian, or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or while upon any errand of mercy, emergency or under direction of their parent, guardian or other adult person having the immediate care, custody or control of the child, or unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right of way during the hours specified in this Section.

~~(B)~~ (2) It shall be unlawful for any unemancipated child over the age of 16 years and under the age of 18 years, ~~unless accompanied by a parent, guardian or other person having the legal custody of the child,~~ to be on any of the streets, alleys, public squares, parks, ~~or~~ sidewalks, or any public place of the city ~~after~~ between the hours of 12:00 a.m. ~~or before the hour of~~ and 5:30 a.m. on any day of the year ~~unless the child is in possession of a written permit from a parent or guardian,~~ unless the child is in the custody of or accompanied by a parent, ~~or~~ guardian, or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or while upon any errand of mercy, emergency or under direction of their

parent, guardian or other adult person having the immediate care, custody or control of the child, or unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right of way during the hours specified in this Section.

B. Daytime Curfew.

(1) It shall be unlawful for any minor between the age of seven (7) and eighteen (18) who has not completed the twelfth grade to be on any street, highway, park, alley, or other public place during School Hours except while attending school as required by ORS 339.010 to 339.065. unless such minor is:

a. Accompanied by the minor's Parent or other Adult that is authorized by the minor's Parent or by the law to have care and custody of the minor: or

b. Engaged in a lawful pursuit or activity that allows the minor's presence in such public place during School Hours and is authorized by the minor's Parent or the principal or other designated school official at the school where the minor is enrolled; or

c. Traveling directly between school and home or to another location designated by the minor's parent after being authorized and approved to be away from school as provided in ORs 339.065, but is not suspended or expelled; or

d. Emancipated or exempt from compulsory school attendance pursuant to ORS 339.030.

(2) Violations of this subsection will result in progressive punishment:

a. The first violation of this subsection will result in the minor being returned home or to school by a police officer. A letter describing the minor's behavior will be sent to the parent or guardian.

b. The second violation of this subsection will result in the minor being referred to the Umatilla County Juvenile Department. The parent will receive a citation, which may qualify for diversion if the minor complies with this section for one year without additional violations of this Ordinance.

(3) No parent or adult person having the care or custody of a minor between the age of seven (7) and eighteen (18) who has not completed the twelfth grade shall allow such minor to be in or upon any street, highway, alley, park or other public place during School Hours except as otherwise provided in this subsection.

(4) For purposes of this section, "School Hours" are the hours of full-time school that the minor would attend in the school district where the minor resides, on any day that school is in session, or, if the school in the school district of residence is unknown, "regular school hours" are the

school hours of the Hermiston School District on any day that school is in session. A minor being home schooled shall comply with the regular hours and schedule established by the home school.

### **133.02 DUTIES OF THE OFFICER.**

~~If a police officer finds any child upon the streets or in any public place in violation of this chapter, and the violation is their first offense, the officer shall make reasonable efforts to contact the parent, guardian or other adult having custody of the child and may take the child into custody as provided in ORS 419C.080 or as otherwise authorized by law such as community caretaking or issue a citation in lieu of custody.~~

#### A. Policy Custody.

(1) Any police officer is authorized to take a minor that has violated §133.01 into custody. The officer may take the minor in custody to the police station, or another location as designated by the Chief of Police. An officer who takes the minor to the police station or another designated location shall use due diligence to find a parent and release the minor to a parent at the police station or other designated location.

(2) In lieu of holding a minor who has violated §133.01(B) in custody until the minor is released to a parent, any police officer is authorized to release such minor to the principal or other designated school official at the school where the minor is enrolled.

#### B. Citation in lieu of custody.

Any police officer may issue a citation to a minor that violates §133.01 in lieu of taking the minor into custody provided the minor is released to a parent, guardian or school official. The citation shall be returnable to the Umatilla County Youth Services.

#### C. Multiple violations.

(1) Any minor that violates §133.01 more than once may be taken into custody and transported home by the police officer, who shall then serve the parent with notice that the parent will be contacted at a later time concerning the parents need to appear before the juvenile court of Umatilla County with the minor to show cause as to why the minor violated this section more than once.

(2) Any parent of a minor that violates §133.01 more than once shall be issued a citation to appear in Hermiston Municipal Court.

### **133.03 DELINQUENCY.**

~~Whenever a peace officer learns that a child has violated the provisions of this chapter under circumstances which tend to render them delinquent, the officer shall place an appropriate complaint with the juvenile court for further proceedings as the court deems appropriate.~~

**~~133.04 AFFIRMATIVE DEFENSE.~~**

~~It shall be an affirmative defense to a violation of § 133.01(A) if the child was actually engaged in traveling to and from a place of employment, school classes, or for attendance at activities serving persons under the age of 16 in which the person is enrolled or authorized to attend or while upon any errand of mercy, emergency or under direction of their parent, guardian or other adult person having the immediate care, custody or control of the child.~~

**133.99 PENALTY.**

When a parent, guardian or other adult person in custody of a child, after having been notified that the child has violated this chapter, permits the child to violate the provisions of this chapter a second time, the parent commits a Class A violation. Any other violation constitutes a Class C violation.

**Section 2.** All other provisions of the Hermiston Municipal Code remain unchanged and in full effect.

**Section 3.** The City Recorder is hereby authorized to correct any scrivener's errors and to conform the revisions to the Hermiston Municipal Code with appropriate numbering.

**Section 4.** This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by the Common Council this 25th day of November 2024.

SIGNED by the Mayor this 25th day of November 2024.

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Dr. David Drotzmann, Mayor

ATTEST:

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Lilly Alarcon-Strong, CMC City Recorder