

EL PASO COUNTY
STATE OF COLORADO
ORDINANCE NO. 93-1

Free

TO PREVENT AND RESTRAIN LOITERING AND
DISORDERLY ASSEMBLIES INVOLVING JUVENILES
DURING SPECIFIED NIGHTTIME HOURS

WHEREAS, pursuant to Section 30-15-401, C.R.S., the Board of County Commissioners of El Paso County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of its citizens; and

WHEREAS, Section 30-15-401(1)(b), C.R.S., specifically authorizes the Board to prevent and suppress riots, routs, affrays, disturbances, and disorderly assemblies in any public or private place; and

WHEREAS, Section 30-15-401(1)(d), C.R.S., specifically authorizes the Board to restrain and punish loiterers and prostitutes; and

WHEREAS, H.B. 93S-1018, codified at Section 30-15-401(1)(d.5), C.R.S., specifically authorizes the Board to discourage juvenile delinquency through the imposition of curfews applicable to juveniles, the restraint and punishment of loitering by juveniles, and the restraint and punishment of defacement of, including the affixing of graffiti to, buildings and other public or private property by juveniles; and

WHEREAS, the County's citizens have experienced public disturbances involving disorderly assemblies; fights, assaults, and various other acts of violence; incidents related to drugs and alcohol; thefts and other criminal activities, typically involving persons under the age of eighteen who congregate or can be found loitering in public or private places after dark; and

WHEREAS, it is the opinion of the Board that in order to preserve the public peace and to protect the public health, safety and welfare of the citizens of El Paso County, the Board should take the following action:

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of El Paso County, Colorado:

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Section 1: Purpose.

The purpose of this Ordinance is to protect the public health, safety and welfare of the citizens of El Paso County, Colorado, by controlling and eliminating, to the extent possible, nighttime loitering, disorderly assemblies and related mischievous or criminal activities involving juveniles who gather or can be found after dark on the public streets and roads of the County, in other public places of the County, and on private property without the permission of the property owner or occupant.

Section 2: Authority.

This Ordinance is authorized pursuant to, inter alia, part 1 of article 11 of title 30 and part 4 of article 15 of title 30, C.R.S.

Section 3: Applicability.

This Ordinance shall apply throughout the unincorporated area of El Paso County, including public and state lands.

Section 4: Definitions.

Disorderly assembly: An assemblage of three or more persons which 1) creates a significant danger of damage or injury to property or persons as exhibited by threats or tumultuous or violent conduct, or 2) obstructs traffic on or into a street, road, highway, sidewalk, building entrance or other public or private passageway, or 3) involves a trespass upon or interference with the use of public or private property, or 4) causes a significant public disturbance or disruption of the nighttime peace by means of unreasonable noise or obviously offensive conduct, such as screaming, loud music, loud use of obscene language, squealing of tires, public urination or the open performance of sexual acts.

Juvenile: Any person under the age of eighteen (18) years.

Loiter: To be dilatory, to stand idly around, to linger, delay, tarry, abide or wander about, whether on foot or in/on a vehicle. Loitering shall include "cruising", i.e., driving or riding in/on a vehicle repeatedly up and down a street, road or highway or repeatedly around a given area, or driving or riding aimlessly about.

Private place: Any privately owned property or business, including any parking lot, vacant lot, yard, building, place of amusement, eating establishment, and the like, where juveniles may

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congregate or be found without the consent or permission of the owner or occupant of the property or when the property or business is closed to the public.

Public place: Any publicly owned property or facility, including any street, road, highway, sidewalk, alley, parking lot, park, playground, common area, school or other public building, where juveniles may congregate or be found, except for public facilities that are holding events or activities expressly open to the juveniles at the time when they congregate or are found there.

Reasonable necessity: a compelling reason involving an exceptional or uncommon situation, such as an emergency or crisis requiring immediate action or an unusual circumstance where the juvenile is acting on behalf of or at the request of the parent, guardian or legal custodian.

Specified nighttime hours: Saturday and Sunday mornings between the hours of 12:00 a.m. (midnight) and 6:00 a.m. and Sunday evenings through Friday morning between the hours of 10:00 p.m. and 6:00 a.m.

Section 5: Unlawful Acts.

5.1 It shall be unlawful for any juvenile to loiter or to engage in a disorderly assembly in any public place or private place during specified nighttime hours. Any juvenile found in any public place or private place during specified nighttime hours shall be presumed to be in violation of this provision, except as otherwise provided in Section 6 below. Satisfactory proof of "reasonable necessity" may be presented to rebut the presumption.

5.2 It shall be unlawful for any juvenile to fail or refuse to comply with any order issued pursuant to this Ordinance.

Section 6: Exceptions.

The following shall not be in violation of Section 5:

6.1 Any juvenile accompanied by a parent, guardian, or having legal custody of the juvenile.

6.2 Any juvenile accompanied by a person over the age of twenty-one (21) years who has written and signed authorization by a parent, guardian or legal custodian of such juvenile to accompany said juvenile for a specific period of time and purpose. Said person must satisfactorily show that he/she is acting within the specified authorization.

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6.3 Any juvenile traveling to or from lawful employment, for up to one-half hour of travel time to and from the place of employment when the juvenile is carrying an employer's written and signed statement specifying the type, hours and place of employment.

6.4 Any assemblage of juveniles engaged in an activity or event sponsored by an established and reputable organization, such as a school or church, or engaged in an activity or event clearly involving First Amendment exercise of free speech/religious rights or the right to petition the government for redress of grievances, such as attending political or civic meetings or church services, when said assemblage is otherwise lawful and orderly.

Section 7: Enforcement Agencies.

This Ordinance shall be enforced by the El Paso County Sheriff's Office, with any judicial prosecution to be conducted by the District Attorney's Office for the 4th Judicial District.

Section 8: Enforcement/Prosecution.

8.1 The El Paso County Sheriff and his deputies shall have authority to order any juvenile to immediately cease any violation of this Ordinance. This authority shall include the right to take a juvenile into temporary custody for the purpose of conveying the juvenile to the home of his/her parent, guardian or legal custodian or for the purpose of locating his/her parent, guardian or legal custodian and requesting that this person retrieve the juvenile. Should it not be possible to deliver home or arrange the retrieval of a juvenile, said juvenile will be released by 6:00 a.m. of the same morning or the morning following the evening when the juvenile was taken into custody, unless legally detained for other reasons.

8.2 Criminal prosecution may be brought against a violator in accordance with Sections 30-15-402 and -410, C.R.S., and under the penalty assessment procedure provided in Section 16-2-201, C.R.S. The Sheriff's Office is authorized to devise a ticketing system in conformance with Section 16-2-201, C.R.S.

8.3 Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other state or local law, rule or regulation.

8.4 Any juvenile who violates this Ordinance commits a Class II Petty Offense and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than three hundred dollars (\$300) for each separate violation. Fines are to

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be set by the County Court, unless the violator wishes to confess guilt and pay the fine, in which case the fine shall be \$100.

8.5 All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to El Paso County and submitted to the El Paso County Finance Office within thirty (30) days of receipt. All fines received by the County shall be remitted to the El Paso County Treasurer and deposited into the General Fund of the County.

Section 9: Additional Remedies.

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any applicable criminal statute.

Section 10: Safety Clause.

The Board hereby finds, determines and declares that this Ordinance is necessary for the health, safety and welfare of the citizens of El Paso County, Colorado.

Section 11: Severability Clause.

If any section, subsection, clause or phrase of this Ordinance is, for any reason, held to be invalid, such holding shall not effect the validity of the remaining portions of this Ordinance.

Section 12: Publication and Effective Date.

The foregoing text is the authentic text of El Paso County Ordinance No. 93-1.

The first reading of said Ordinance took place on September 2, 1993. It was published in full in the Gazette Telegraph and the Daily Transcript, respectively, on September 10, 1993.

It was adopted, with two amendments (addition of the fourth introductory "Whereas" provision and the insertion of "in negotiable funds" in Section 8.5), on September 27, 1993, and was published in full, with the amendments noted, in the Gazette Telegraph and the Daily Transcript, respectively, on October 8 _____, 1993. It shall take effect November 15, 1993.

DONE AND SIGNED this 27th day of September, 1993, at Colorado Springs, Colorado.

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ATTEST:

By: Peter Schubert
Deputy County Clerk

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: Jan C Howells
Chairperson

COUNTY OF EL PASO)
)
STATE OF COLORADO)

I hereby certify and attest that the provisions of Section 12, Ordinance No. 93-1, as set forth hereinabove are true and correct to the best of my knowledge, information and belief.



Peter Schubert
Deputy County Clerk