

was introduced and passed first reading on July 10, 1968:

WHEREAS, public hearing has been held thereon,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of Elmer, Salem County, New Jersey, that an Ordinance entitled "Loitering and Curfew Ordinance" be finally adopted and notice of its adoption by title only be published in the Times in its issue of August 22, 1968.

Motion Gardner, seconded Craver that the Resolution be read as read. Ayes - Anthony, Craver, Gardner, Hunt, Iles. None. Motion carried.

ORDINANCE #68-1  
"LOITERING AND  
CURFEW ORDINANCE"

BE IT ORDAINED by the Borough Council of the Borough of Elmer, Salem County, New Jersey.

SECTION I. No person shall remain idle, or lounge, or sleep, or loiter, in or upon any street or other public place within the Borough of Elmer.

SECTION II. For the purpose of this Ordinance, the following terms, phrases, words and their derivation, shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural include the singular number and words in singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) The term "loiter" shall encompass but shall not necessarily be limited to one or more of the following acts:

(1) Obstruction of the free unhampered passage of pedestrians or vehicles.

(2) Obstructing, molesting, or interfering with any person lawfully upon any street, park or other public place.

(3) Remaining idle in essentially one location without being able to establish having a legitimate business or purpose in so remaining idle or by conduct exhibiting the absence of a lawful purpose in so remaining idle.

(4) Refusing to move on when so requested by a peace officer provided that the peace officer has exercised his discretion reasonably under the circumstances in order to preserve or promote public peace and order.

(b) The term "other public place" shall be deemed to include the quasi-public area in front of or adjacent to any store, shop, restaurant, luncheonette include any parking lots, garages and service stations, or other vacant private property not owned or under the dominion of the person charged with a violation of this ordinance.

SECTION III. It shall be unlawful for the parent, guardian, or other adult person having the care or custody of any minor under the age of eighteen years to knowingly permit such minor to remain idle or loiter in violation of Section I of this ordinance.

SECTION IV. Whenever any minor under the age of eighteen years is arrested for violating Section I of this

ordinance, the arresting officer shall notify the parent, guardian or other person having custody of such minor, of such arrest.

SECTION V. If it be established that any minor under the age of eighteen years, remained idle or loitered in violation of Section I of this ordinance between the hours of 11:00 P.M. and 6:00 A.M. of the following day, then it shall be presumed, in the absence of proof to the contrary, that the parent, guardian or other adult person having the care of custody of such minor, knowingly permitted such minor to do so.

SECTION VI. If it be established that the parent, guardian or other adult person having the care or custody of any minor under the age of eighteen years was duly notified pursuant to Section IV of this ordinance, that such minor had been arrested for a violation of Section I of this ordinance, and it be further established that such minor subsequently remained idle or loitered in violation of Section I of this ordinance, then it shall be presumed in the absence of proof to the contrary, that such parent, guardian or adult person knowingly permitted such subsequent violation.

SECTION VII. Any person or persons violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding Two Hundred (\$200.00) Dollars, or by imprisonment in the County Jail for a term not exceeding thirty (30) days, or both such fine and imprisonment.

SECTION VIII. If any section or portion of a section of this ordinance shall be invalid for any reason, such invalidity shall not affect the validity of the remaining section or portions of this ordinance.

SECTION IX. This ordinance shall become effective immediately following final adoption and publication in accordance with law.

## NOTICE

Notice is hereby given that An Ordinance entitled "Loitering and Curfew Ordinance" was finally adopted at the regular meeting of the Borough Council, of the Borough of Elmer, held on August 14, 1968.

Curtis G. Stratton  
Borough Clerk

**ORDINANCE 2008-9**

**ORDINANCE REPEALING ORDINANCE 68-1 "LOITERING AND CURFEW ORDINANCE"**

**WHEREAS**, Borough of Elmer Ordinance 68-1 entitled Loitering and Curfew Ordinance prohibits certain activities commonly referred to as "loitering, and;

**WHEREAS**, Loitering ordinances, like Borough of Elmer Ordinance 68-1 entitled Loitering and Curfew Ordinance, were declared invalid by the New Jersey Supreme Court in State v. Crawley, 90 N.J. 241 (1982) and;

**WHEREAS**, The Court invalidated municipal loitering ordinances based on the fact that the New Jersey Code of Criminal Justice and contained a prohibition on loitering which was repealed by the State Legislature; and

**WHEREAS**, This ordinance has not been enforced and was rendered irrelevant by the Court decision.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Elmer, County of Salem and State of New Jersey, as follows:

**Section 1.** Borough of Elmer Ordinance 68-1 entitled Loitering and Curfew Ordinance shall be and is hereby repealed in its entirety.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder of any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

ADOPTED: June 11, 2008

Approved by Mayor on  
June 11, 2008

  
Beverly S. Richards, Clerk

  
Joseph P. Stemberger, Mayor

Roll Call Vote:

Yes No Abstaining Absent

Lynda Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Benjamin H. Laury	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steven A. Schalick	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lewis M. Schneider	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Shapiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
James Zee III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>