

Elmwood Park Borough Loitering Ordinance (Repealed June 16, 2005)

3-7 LOITERING.

3-7.1 Definitions. As used in this section:

Loitering shall mean remaining idle in essentially one location and shall include the concept of spending time idly, loafing or walking about aimlessly.

Parent and guardian shall mean and include any adult person having care or custody of a minor, whether by reason of blood relationship., the order of any Court or otherwise.

Public place shall mean any place in which the public has access and shall include any street or sidewalk. It shall also include the front or the neighborhood of any store, shop, restaurant, tavern or other place of business and the public grounds, areas, parks, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this section, or in the case of a minor, not owned or under control of his parents or guardian. (1969 Code § 55-8; Ord. No. 78-15)

3-7.2 Prohibited Acts.

No persons shall loiter in a public place in such a manner as to:

- a. Create or cause to be created a danger of a breach of the peace.
- b. Create or cause to be created any disturbance or annoyance to the comfort and repose of any persons.
- c. Obstruct the free passage of pedestrians or vehicles.
- d. Obstruct, molest or interfere with any person lawfully in any public place as defined in subsection 3-7.1. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to, or in whose hearing, they are made. (1959 Code § 55-8; Ord. No. 78-15)

3-7.3 Failure to Obey Order of Police Officer.

Whenever any Police Officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in subsection 3-7.2, the Officer may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a Police Officer shall be guilty of a violation of this section. (1969 Code § 55-8; Ord. No. 78-15)

3-7.4 Loitering by Minors.

No parent or guardian of a minor under the age of eighteen (18) years shall knowingly permit

that minor to loiter in violation of this section. (1969 Code § 55-8; Ord. No, 78-15)

3-7.5 Notice of Violation.

Whenever any minor under the age of eighteen (18) years is charged with a violation of this section, his parent or guardian shall be notified of this fact by the Chief of Police or any other person designated by him to give such notice. (1969 Code § 55-8; Ord. No. 78- 15)

3-7.6 Presumption.

If at any time within thirty (30) days following the giving of notice as provided in subsection 3-7.5, the minor to whom such notice relates again violates this section, it shall be presumed in the absence of evidence to the contrary that the minor did so with the knowledge and permission of his/her parent or guardian. (1969 Code § 55-8; Ord. No. 78-15)

3-7.7 Violation and Penalty.

Any person violating any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter L Section 1-5. (1969 Code § 55-8; Ord No. 78-15; New)
313

Information on Repeal

Borough of Elmwood Park - Ord. No. 05-17

BE IT ORDAINED, by Mayor and Council of the Borough of Elmwood Park as follows:

WHEREAS, the Mayor and Council .of the Borough of Elmwood Park desires that Ordinance 3-7 (1969 Code § 55-8; Ord. No. 78-15), Loitering, be repealed; and,

WHEREAS, Ordinance 3-7 (1969 Code § 55-8; Ord. No. 78-15), Loitering, has been preempted and rendered unenforceable by the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 to 98-4.

NOW; THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMWOOD PARK, BERGEN COUNTY, NEW YERSEY, AS FOLLOWS:

SECTION 1. That Ordinance 3-7 (1969 Code § 55-8; Ord. No. 78-15), Loitering, is hereby repealed.

SECTION 2. The repeal "of Ordinance 3-7 (1969 Code § 55-8; Ord. No. 78-15), Loitering, shall not effect any duty imposed, any penalty incurred, nor any action or proceeding as commenced under or by virtue of the ordinance repealed.

SECTION 3. That this Ordinance shall take effect and be in full force from and after the date of its passage and approval pursuant to law.

/s/ Richard A. Mole, Mayor /s/ Dolores Camlet, Borough Clerk
1st Reading: June 2, 2005 2nd Reading: June 16, 2006