



TOWN OF ELIZABETH

PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Board of Trustees
FROM: Patrick Davidson, Town Administrator
DATED: January 28, 2025
SUBJECT: Ordinance to Amend Section 10-6-70 and Repealing Section 10-6-80 of the Town of Elizabeth Municipal Code Concerning Curfew Violations

BACKGROUND

On November 18, 2024, the District Court for Elbert County, Colorado found the Town's curfew ordinance overly broad, and therefore unconstitutional. The Town Attorney has recommended and approved the attached Ordinance to bring the Town Code into conformity with the Court's ruling.

ANALYSIS

The Town retains the necessary police powers for the health, welfare, and safety of the community. A curfew ordinance is a valid exercise of the Town's police powers and is necessary and proper to protect minor residents in Elizabeth.

STAFF RECOMMENDATION

Staff recommends amending Section 10-6-70 and repealing Section 10-6-80 of the Town Code in conformity with the District Court decision in M.S. Concerning J.S. a Minor Child vs. The Town of Elizabeth, Case Number 2022CV30033.

BUDGET CONSIDERATIONS

N/A

ATTACHMENTS

An Ordinance Amending Section 10-6-70 and Repealing Section 10-6-80 of the Town of Elizabeth Municipal Code Concerning Curfew Violations

ORDINANCE 25-02

AN ORDINANCE AMENDING SECTION 10-6-70 AND REPEALING SECTION 10-6-80 OF THE TOWN OF ELIZABETH MUNICIPAL CODE CONCERNING CURFEW VIOLATIONS

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF ELIZABETH, COLORADO, THAT:

Section 1. Section 10-6-70 of the Town of Elizabeth Municipal Code is hereby amended as follows:

10-6-70. – Curfew.

(a) It is unlawful for any person who has not reached his or her eighteenth birthday, or for any parent, guardian or other person having legal custody of any minor who has not reached their eighteenth birthday to knowingly allow or permit a minor to be loiter or remain upon any public road, street or alley, ~~to be or remain~~ in any establishment open to the public, or ~~to be or remain~~ in any other public place in the Town after the hour of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 12:00 midnight on any Friday or Saturday, or prior to the hour of 5:00 a.m. on any day except:

(1) When accompanied by a parent, guardian or other person having legal custody of such minor;

(2) For lawful employment when commuting directly to or from such employment and when carrying an employer's written and signed statement specifying the type, hours, and place of employment;

(3) When accompanied by a person who has reached his or her eighteenth birthday and who has in his or her possession the written and signed consent of the parent, guardian, or other person having legal custody of the minor;

(4) In a parked, standing or moving vehicle while accompanied by a parent, guardian, or other adult person;

(5) In a motor vehicle in interstate travel; or

(6) Engaged in any school, religious, civic, or social activity, directly going to or returning from any such activity or going to or from any other activities of any kind which are supervised or directed by a parent or adult person.

(b) It shall be an affirmative defense to a charge under this Section that, at the time of the violation, the minor was:

(1) Not loitering; or

(2) Exercising rights protected by the First Amendment of the United States Constitution, such as the free exercise of religion, freedom of speech, or the right of assembly.

(c) For purposes of this Section, to "loiter" or the act of "loitering" shall mean remaining idle in one (1) location, to be dilatory, to tarry or to dawdle and shall include without limitation standing around, sitting, kneeling, sauntering or prowling in a public place.

(d) For purposes of this Section, "knowingly" shall mean knowledge which a parent, guardian or other person having legal custody of a person who has not reached their eighteenth birthday should be reasonably expected to have concerning the whereabouts of such minor person.

Section 2. Section 10-6-80 of the Town of Elizabeth Municipal Code shall be deleted in its entirety.

Section 3. Severability. If any section, paragraph clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 4. The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. This Ordinance shall become effective thirty (30) days after publication.

Read and approved at a meeting of the Board of Trustees of the Town of Elizabeth, Colorado, this _____ day of _____, 2025.

Passed by a vote of _____ for and _____ against and ordered published.

Angela Ternus, Mayor

ATTEST:

Michelle M. Oeser, Town Clerk