

CITY OF LEADVILLE, COLORADO
Ordinance No. 4
Series of 2017

**AN ORDINANCE AMENDING SECTION 9.24.090 OF CHAPTER 9.24 OF
THE LEADVILLE MUNICIPAL CODE CONCERNING LOITERING**

WHEREAS, the City Council has the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, the City Council also has the authority pursuant to C.R.S. § 31-15-401 to restrain and punish loiterers; and

WHEREAS, the City previously adopted certain regulations concerning loitering as codified in Chapter 9.24.090; and

WHEREAS, the City Council wishes to amend the loitering offenses punishable under the Leadville Municipal Code to remove certain provisions that have been successfully challenged in federal and state courts on constitutional grounds and to address issues and concerns specific to Leadville; and

WHEREAS, it is in the best interest of the people of the City of Leadville to update the Leadville Municipal Code in order to comply with free speech protections afforded individuals under the First Amendment and to tailor the ordinance to address concerns specific to the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, as follows:

Section 1. Section 9.24.090 entitled Loitering, is hereby amended to read in full as follows:

9.24.090 – Loitering.

A. Definitions.

"Loiter" means to be dilatory, to stand idly around, to linger, delay, or wander about, or to remain, abide, or tarry.

"Curtilage" means the area immediately surrounding a dwelling place, including any closely associated buildings or other structures, where the owner or occupant has a reasonable expectation of privacy. Curtilage does not include public streets, sidewalks, or other public rights-of-way.

B. A person commits loitering if he or she does any of the following:

1. Loiters in or about a school building or grounds, or within one hundred (100) feet of school grounds after he or she has been asked to leave by a school administrator or his representative or by a peace officer and

does not otherwise have written permission from a school administrator, or when:

- (a) he or she has no reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there,
 - (b) he or she is interfering with or obstructing the learning or educational duties, obligations, or activities of the students, faculty, or staff of the school, and
 - (c) persons under the age of eighteen (18) are present in the school building or on the grounds during school hours.
2. Loiters after dark between the times of dusk until dawn in or around the curtilage of a dwelling place or any other place used wholly or in part for living or dwelling purposes, belonging to or occupied by another, without the consent of the owner or occupant.
- C. It shall be an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as part of peaceful and orderly petition for the redress of grievances.


Section 2. Remaining provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 3. Codification Amendments. The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 4. Severability. Should any one or more sections or provisions of this ordinance or enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 5. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 21 day of April, 2017.



Greg Labbe, Mayor

ATTEST:




Bethany Maher, City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on May 11th, 2017.

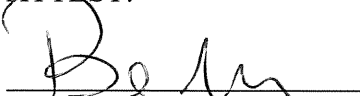
PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY, with any amendments, this 25th day of May, 2017.

CITY OF LEADVILLE, COLORADO



Greg Labbe, Mayor

ATTEST:



Bethany Maher, City Clerk

PUBLISHED in full, as amended, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on _____, 2017.

