

BILL NO. 03-

PAHRUMP TOWN ORDINANCE NO. 42

AN ORDINANCE ENACTING THE CRIMINAL MISDEMEANOR OFFENSES OF LOITERING AND PROWLING, ENUMERATING PROHIBITED ACTS, PENALTIES FOR VIOLATION, AND OTHER MATTER PROPERLY RELATING THERETO

WHEREAS, the Town Board of the unincorporated Town of Pahrump finds that it has the power to enact and enforce loitering and prowling ordinances under NRS 269.217; and

WHEREAS, the Town Board of the unincorporated Town of Pahrump desires to protect the public peace, morals and welfare of the citizens of the Town; and

WHEREAS, the Town Board of the unincorporated Town of Pahrump finds that enacting and enforcing a loitering and prowling ordinance is in the best interest of the citizens of the Town; and

NOW, THEREFORE, the Town Board of the unincorporated Town of Pahrump, Nye County, Nevada, does hereby ordain as follows:

Section 42.000. Prohibited Acts

It shall be unlawful for any person to:

1. Accost other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms;
2. Go from house to house or business begging food, money or other articles, or seeks admission to such houses upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;
3. Loiter or wander upon the streets or from place to place without apparent reason or business and refuse to identify himself and to account for his presence when requested by any peace officer, if the surrounding circumstances are such as to indicate to a reasonable person that the public safety demands such identification;
4. Loiter, prowl or wander upon the private property of another, in the nighttime, without visible or lawful business with the owner or occupant thereof, or who, while loitering, prowl or wander upon the private property of another, peek in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof; or
5. Lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to the possession or control thereof.
6. Sleep or loiter in the doorway of an otherwise unoccupied building, without the

ATTEST:

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permission of the owner or other person who is entitled to possession or control thereof.

Section 42.100 Penalty for Violation

Any person found guilty of a violation of this ordinance is guilty of a misdemeanor under the general laws of the state of Nevada and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed six months, or by both such fine and imprisonment, and additionally shall pay costs of suit. In no case shall costs be suspended.

Section 42.200 Effective Date

This Ordinance shall be in full force and effect from and after its passage, adoption and second publication in a newspaper printed and published within the Town of Pahrump, County of Nye, State of Nevada.

Proposed on the 14th day of October, 2003

Proposed by Board Member Paula Glidden

Passed on the 25th day of Nov., 2003

VOTE:

5-0

AYES:

NAYS:

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Section 42.000. Prohibited Acts

It shall be unlawful for any person to:

1. Accost other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms; Accost is defined as the intention of interfering with the free passage of persons thereon, i.e. physically block or attempt to block with his own body or an object or vehicle, that portion of a public sidewalk used for pedestrian travel. Interfering with the free ingress to or egress from, physically block or attempt to block with his own body or any object or vehicle, the passage of pedestrians or vehicular traffic at an entrance to any public or private property abutting a public sidewalk.
2. Go from house to house or business begging food, money or other articles, or seek admission to such houses upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;
3. Loiter, prowl or wander upon the private property of another, without visible or lawful business with the owner or occupant thereof, or who, while loitering, prowling or wandering upon the private property of another, peeks in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof; Among the circumstances which may be considered in determining whether or not a person who loiters or prowls upon private property of another has lawful business with the owner or occupant thereof is the fact that such a person takes flight upon the appearance of a peace officer or endeavors to conceal himself or any object.
4. Loiters or sleeps on any street, sidewalk or alley or sleeps or lodges in any building or structure, or automobile or other vehicle without owning the same or without permission of the owner or person entitled to possession of same, or sleeps in any vacant lot or public ground.

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days if it makes them comfortable. Mr. Nixon said he would take care of any liens that may come across later.

There was discussion regarding the amount of liens known at this time that equal approximately \$80,000. Ms. Glidden asked if any liens filed above the \$82,500 would Monument be responsible. Mr. Nixon replied that he would be. Ms. Hinds pointed out that he is responsible for those liens now. Paula Glidden asked if it could be stated that the Town will only be responsible for liens filed prior to a particular date. Cristina Hinds responded that if you know there is \$60,000 in liens outstanding and Monument is paid \$40,000, they will not have the money to pay the liens. The Town would then have to pay the liens anyway. Ms. Hinds noted that she did not think it would be legally enforceable against Monument.

Rick Ewing asked Mr. Nixon if he would supply the Town with the names of contractors or suppliers he will use in the two week completion time. Pat Nixon replied absolutely.

Art Jones commented on the payment of liens, getting more information from Mrs. Warner and what guarantees there are on the project when it is complete. Mr. Ewing replied that there are concrete stipulations which Monument can be held to. Also, the Town would have recourse with regard to Monument's contract license.

Vote passed 5 – 0.

Mr. Nixon said he would be on the job on Monday (November 24) if not sooner.

THIRD READING OF PAHRUMP TOWN ORDINANCE #42 – ENACTING THE CRIMINAL MISDEMEANOR OFFENSES OF LOITERING AND PROWLING, ENUMERATING PROHIBITED ACTS, PENALTIES FOR VIOLATION, AND OTHER MATTERS PROPERLY RELATING THERETO

Rick Ewing read the title for Pahrump Town Ordinance #42.

DISCUSSION, ACTION AND DECISION REGARDING APPROVAL OF PAHRUMP TOWN ORDINANCE #42 – LOITERING AND PROWLING ORDINANCE

Paula Glidden Motioned to approve Pahrump Town Ordinance #42. Richard Billman seconded the motion.

Jim Petell asked who came up with this ordinance. Paula Glidden replied that she did.

Tony DeMeo noted that when this ordinance was first proposed that he had some problems with it. Sheriff DeMeo said that this has been construed as an anti homeless ordinance which he feels is not true. Toney DeMeo stated that he feels this is an anti harassment ordinance.

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Jeanna Howard pointed out that people have made this an issue about being homeless rather than an issue about people acting inappropriately toward citizens. Sheriff DeMeo noted that there is nothing in the ordinance relating to being homeless. However, it does have to do with inappropriate conduct towards the citizens. Tony DeMeo said his office is also going to begin dealing with drinking in the park.

Ray Mallow commented that he feels this ordinance is ludicrous and that there are laws already dealing with the issues stated by Sheriff DeMeo.

Paul Miller commented that the ordinance is unlawful and ambiguous and violates the first and fourth amendments of the Constitution. Mr. Miller noted that no one was present from the District Attorney's office for comments on this ordinance. Paul Miller said he was felt this ordinance is unenforceable.

Candice Trummell commented on some of the specifics, particularly under #3 regarding lawful business. Ms. Trummell referred to item #4, concerning permission for entering a property for lawful business.

Sheriff DeMeo noted that his personnel are trained for making proper decisions. Tony DeMeo noted that this ordinance was fashioned after the Reno, Nevada ordinance and that Reno has never been sued over it. Rick Ewing asked if the Sheriff's personnel would be able to determine someone napping in the park as opposed to someone living in the park. Sheriff DeMeo replied that they would.

Rick Ewing asked Cristina Hinds if the Board later felt that the Sheriff was abusing this ordinance, can it be rescinded. Ms. Hinds replied it could after three readings.

Paula Glidden relayed her story of how the idea for this ordinance came to her.

Ray Mallow commented that by passing this ordinance, the liability will be shifted to the Town.

Harley Kulkin commented regarding homeless people.

Vote passed 5 – 0.

DISCUSSION/UPDATE ON PREPARATION OF POLICY AND PROCEDURE OF TOWN OF PAHRUMP SPONSORSHIP OF COMMUNITY UTILIZATION OF COMMUNITY CENTER

Jeanna Howard apologized that this was not on the agenda as a decision item. Ms. Howard explained that a meeting was held with members of the community and came up with some resolution to utilization of the community center under Town sponsorship gatherings. Ms. Howard noted that this will be based on use of Rooms A or B only for the general usage of members of the community to gather for the mutual goal of educational informational workshops as well as hobbyist interests. This would be based on the occupancy limits of those rooms, coming with the mutual goal of having general discussions and of a general interest forum, and the availability of Room A or B. Ms. Howard reported

5. Loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd, or lascivious or other unlawful act; or
6. Solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;

Section 42.100 Penalty for Violation

Any person found guilty of a violation of this ordinance is guilty of a misdemeanor under the general laws of the state of Nevada and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed six months, or by both such fine and imprisonment, and additionally shall pay costs of suit. In no case shall costs be suspended.

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AYES

Paula Gidden

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Chapman