

1 **BOARD BILL NO. 7** **INTRODUCED BY ALDERMAN CRAIG SCHMID**

2
3 An ordinance repealing ordinance 61415 and enacting a new ordinance pertaining to
4 loitering that provides for the public health, safety and welfare by prohibiting gang,
5 prostitution and drug loitering in areas designated by the Chief of Police with notice and
6 penalty provisions, in order to reduce gang violence (murder or attempted murder;
7 kidnapping; assault, battery; intimidation or harassment; rape; sodomy; discharge of a
8 firearm; carjacking; theft; robbery; burglary; possession of illegal firearm; possession of
9 explosive or incendiary device; possession, transportation, manufacture, sale, solicitation
10 of the sale or distribution of illegal drugs; vandalism; acts leading to the delinquency of a
11 minor); prostitution or solicitation for prostitution; littering; obstructing, disrupting or
12 impeding pedestrian or vehicular traffic; peace disturbance; and interference with the
13 lawful use of the City’s streets, sidewalks, alleys, parks and other public places for their
14 intended purposes so that the public may use such places without fear and without
15 interference with their free exercise of rights guaranteed to them by the U.S. Constitution.

16 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

17 **SECTION ONE: Findings.**

18 The Board of Aldermen finds as follows:

- 19 1. The City of St. Louis is authorized to regulate the use of public highways,
20 streets, boulevards, parkways, sidewalks, alleys, parks, public grounds,
21 squares, wharves, bridges, viaducts, subways, and tunnels, pursuant to Article
22 I, Section 1 (14) of the Charter of the City of St. Louis. Further, the City of
23 St. Louis is authorized “[t]o define and prohibit, abate, suppress and prevent
24 or license and regulate all acts, practices, conduct, business, occupations,

1 callings trades, uses of property and all other things whatsoever detrimental or
2 liable to be detrimental to the health, morals, comfort, safety, convenience or
3 welfare of the inhabitants of the city and all nuisances and causes thereof.”
4 Charter of the City of St. Louis, Article I, Section 1 (25). Moreover at Article
5 I, Section 1 (33) of the Charter of the City of St. Louis, the City is empowered
6 to “do all things whatsoever expedient for promoting or maintaining the
7 comfort, education, morals, peace, government, health, welfare, trade,
8 commerce or manufactures of the city or its inhabitants.”

- 9 2. One of the methods by which criminal street gangs establish control over
10 identifiable areas in order to control narcotics sales and other illegal activities
11 in those areas is by loitering in those areas and intimidating law-abiding
12 residents and others from entering those areas.
- 13 3. Members of criminal street gangs, individuals soliciting for prostitution, and
14 drug dealers avoid arrest by committing no offense otherwise punishable
15 under existing laws when they know that police are present, while maintaining
16 control over identifiable areas by continued loitering.
- 17 4. Loitering in public places by criminal gang members, individuals soliciting
18 for prostitution, and drug dealers creates a justifiable fear for the safety of
19 persons and property in the area because of violence, including drive-by
20 shootings, drug dealing and vandalism associated with such activity, as well
21 as sexually transmitted diseases from prostitution and reduced property
22 values.

- 1 5. The City of St. Louis has an interest in discouraging all persons from loitering
2 in public places with criminal street gang members and in public areas
3 designated by the Chief of Police, because persons who are not gang members
4 in those circumstances are at risk from drive-by shootings and other gang-
5 related and drug-related violence, and at risk to be recruited by gangs.
- 6 6. Aggressive action is necessary to remove the scourge of this street terrorism to
7 preserve the City's streets, sidewalks, alleys, parks and other public places so
8 that the public may use such places for their intended purposes without fear.
- 9 7. The improper use of certain public places to facilitate murder or attempted
10 murder; kidnapping; assault, battery; intimidation or harassment; rape;
11 sodomy; discharge of a firearm; carjacking; theft; robbery; burglary;
12 possession of illegal firearm; possession of explosive or incendiary device;
13 possession, transportation, manufacture, sale, solicitation of the sale or
14 distribution of illegal drugs; vandalism; acts leading to the delinquency of a
15 minor; prostitution or solicitation for prostitution; littering; obstructing,
16 disrupting or impeding pedestrian or vehicular traffic; peace disturbance; or
17 other illegal conduct has a chilling effect upon the free exercise of rights
18 guaranteed to all by the U.S. Constitution, interferes with commerce and
19 impairs legal business and economic relationships, and threatens the health,
20 safety and welfare of our residential communities. The improper use of public
21 places is particularly heinous, for example, when it interferes with the daily
22 activities of the handicapped, disabled or elderly as they attempt to negotiate
23 our sidewalks and handicap ramps; school children and their families on their

1 way to and from school; church, synagogue, temple or worship center
2 members on their way to and from worship services; the ill or their visitors on
3 the way to or from the hospital; workers on their way to or from employment;
4 shoppers and customers on their way to or from shopping, obtaining services,
5 dining or enjoying entertainment; and residents who cannot enjoy their homes
6 in peace and tranquility.

- 7 8. Current laws alone have been inadequate to deal with problems posed by
8 gang, prostitution and drug-related loitering as a means to facilitate trafficking
9 in narcotics and controlled substances and solicitation for prostitution,
10 principally because those laws generally depend upon the willingness of
11 civilians to testify against gang members, drug dealers and prostitutes and
12 their panderers (pimps), and many civilians are understandably reluctant to
13 put themselves in harm's way by providing such testimony.

14 SECTION TWO. Definitions.

15 "Criminal street gang" as used in this ordinance means any ongoing organization,
16 association, association in fact or group of three or more persons, whether formal or
17 informal, having as one of its substantial activities the commission of one or more of the
18 criminal acts set forth below in the definition of "criminal gang activity", and whose
19 members individually or collectively engage in a pattern of criminal or gang activity.

20 "Criminal gang activity" as used in this ordinance means the commission, or solicitation,
21 of the following offenses, provided that the offenses are committed by two or more
22 persons, or by an individual at the direction of, or in association with, any criminal street
23 gang, with the specific intent to promote, further or assist in any criminal conduct by

1 gang members: murder or attempted murder; kidnapping; assault, battery; intimidation or
2 harassment; rape; sodomy; discharge of a firearm; carjacking; theft; robbery; burglary;
3 possession of illegal firearm; possession of explosive or incendiary device; possession,
4 transportation, manufacture, sale, solicitation of the sale or distribution of illegal drugs;
5 vandalism; acts leading to the delinquency of a minor; prostitution or solicitation for
6 prostitution; littering; obstructing, disrupting or impeding pedestrian or vehicular traffic;
7 or peace disturbance.

8 “Gang, prostitution or drug loitering” as used in this ordinance means remaining in or
9 around one place under circumstances that would warrant a reasonable person to believe
10 that the purpose or effect of that behavior is to enable a criminal street gang to establish
11 control over identifiable areas, to intimidate others from entering those areas, to solicit
12 for prostitution, to solicit for drug sales, or to conduct or to conceal illegal activities.

13 “Prostitute or panderer” as used in this ordinance means a person who, within five (5)
14 years previous to the date of loitering, within the knowledge of the police officer issuing
15 a court summons or arresting the person, has been convicted of, pleaded guilty to, or
16 failed to appear for a court appearance on a court summons and a warrant for arrest has
17 been issued for prostitution, promotion of prostitution, pandering or soliciting for
18 prostitution, or compelling prostitution.

19 “Public place” as used in this ordinance means the public way and any other location
20 open to the public, whether publicly or privately owned.

21 SECTION THREE. Designation of “No Loitering” Areas.

22 A. Written Directive by Chief of Police.

1 The Chief of Police shall by written directive designate “no loitering” areas of the City of
2 St. Louis in which the Chief of Police has determined that it is necessary to enforce this
3 ordinance to protect the safety of the public from gang, drug, and prostitution loitering,
4 because the loitering has enabled criminal street gangs to establish control over
5 identifiable areas, creates an intimidating environment for the public attempting to enter
6 those areas, or permits illegal activities to be conducted or concealed.

7 B. Determination of Identifiable Areas.

8 The Chief of Police shall consult as the Chief of Police deems appropriate with persons
9 knowledgeable about gang, drug or prostitution activity in areas in which this ordinance
10 may be enforced. Such persons may include, but need not be limited to, members of the
11 St. Louis Metropolitan Police Department with special training or experience related to
12 criminal street gangs, prostitution or illegal drugs; other personnel of the St. Louis
13 Metropolitan Police Department with particular knowledge of criminal gang activity,
14 prostitution, or drug sales in the area proposed to be designated as a “no loitering” area;
15 captains and majors in the St. Louis Metropolitan Police Department; neighborhood or
16 commercial organizations and residents active in the proposed area; and elected City and
17 State officials representing the proposed area.

18 Additionally, the Chief of Police shall have the authority to designate any area as a “no
19 loitering” area, which is set forth in Exhibit A, attached to this ordinance, or where any of
20 the following has occurred during any six (6) month period within the two (2) year period
21 preceding the designation:

- 22 1. calls for police service to that area have exceeded twenty (20) calls;

- 1 2. police have made more than six (6) arrests for any of the activities set forth in
2 Section Two of this ordinance as a criminal act in the definition of “criminal
3 street gang activity”; or
4 3. the area has been designated by the U.S. Department of Justice as a “Weed &
5 Seed” area.

6 C. Notice of Designated “No Loitering” Areas.

7 The Chief of Police shall provide whatever notice the Chief deems is most practicable to
8 inform the public, which notice may consist of one or more of the following:

- 9 1. obtaining posting of “No Loitering” or “No Loitering within 100 Feet by
10 Order of the Chief of Police -- Ordinance No. _____ [citing this
11 ordinance]” by the Street Department of the City of St. Louis.
12 2. obtaining notice mailed by regular first class postage prepaid, or by mail
13 return receipt requested at the discretion of the Chief of Police, which notice is
14 mailed to every owner of real property and every registered voter within the
15 area being designated, together with the temporary posting of the area to
16 provide notice.

17 D. Duration of Designations and Review of Designations.

18 Areas designated as “no loitering” areas shall remain “no loitering” areas until one of the
19 following occurs:

- 20 1. The Chief of Police in writing rescinds the written directive designating the
21 area upon a determination that it is no longer necessary to enforce this
22 ordinance to protect the safety of the public against gang, drug or prostitution
23 loitering; or

1 2. The alderman for the ward in which the area designated as a “no loitering”
2 area successfully sponsors a board bill that is finally passed by the Board of
3 Aldermen and signed into law by the mayor as an ordinance, which revokes
4 the designation of the “no loitering” area.

5 SECTION FOUR. Enforcement.

6 A. Warning in Designated Areas Not Clearly Posted.

7 Following providing a police warning as set forth below, court summons shall be issued,
8 or arrest made, whenever a police officer observes any one or more of the following,
9 within a “no loitering” designated area, which is not clearly designated with a posted “no
10 loitering” sign:

- 11 1. a member of a criminal street gang engaged in loitering with one or more
12 persons in any public place designated for enforcement of this ordinance;
- 13 2. a prostitute or panderer;
- 14 3. any person transfers small objects or packages for currency in a furtive way;
15 or any person tries to conceal himself or herself or any object that could be
16 involved in illegal conduct for one of the activities set forth in Section Two of
17 this ordinance as a criminal act in the definition of “criminal street gang
18 activity”;
- 19 4. any person uses signals, gestures or language; beckons to, stops or attempts to
20 stop passersby (whether on foot or in a vehicle); or engages in conversations
21 indicative of summoning purchasers of illegal drugs or acts of prostitution; or

1 5. any person uses criminal street gang gestures, signals or language; or wears
2 criminal street gang colors or clothing in the company of a known street gang
3 member.

4 A police officer who observes, within any public place designated as a “no loitering” area
5 without any clearly posted “no loitering” sign, any of those persons or conduct set forth
6 above in this Section Four shall, subject to all applicable procedures promulgated by the
7 Chief of Police:

8 1. inform all persons within the designated area that they are engaged in illegal
9 gang, prostitution or drug loitering within an area where such loitering is
10 prohibited;

11 2. order all persons within the designated area to disperse and remove
12 themselves from within sight and hearing (which does not include trespass) of
13 the place at which the order was issued; and

14 3. inform all persons within the designated area that they will be subject to arrest
15 if they fail to obey the order promptly or engage in further gang, prostitution
16 or drug loitering within the sight or hearing of the place at which the order
17 was issued during the next three (3) hours.

18 B. Designated Areas Clearly Posted.

19 Court summons shall be issued, or arrests made, without further warning by a police
20 officer whenever an area is clearly posted as an area designated as a “no loitering” area
21 with a “No Loitering” or “No Loitering within 100 Feet by Order of the Chief of Police -
22 - Ordinance No. _____ [citing this ordinance]” sign and the police officer observes

1 any of those persons or conduct set forth above in Section Four of this ordinance, subject
2 to all applicable procedures promulgated by the Chief of Police.

3 C. Not Exclusive Remedy.

4 Nothing herein precludes enforcement of other laws in addition to this ordinance for
5 violations of laws, including but not limited to laws relating to the one of the activities set
6 forth in Section Two of this ordinance as a criminal act in the definition of “criminal
7 gang activity”.

8 SECTION FIVE. Protection of Civil Liberties.

9 This ordinance is designed to protect the civil liberties of the public to use of public
10 places against those who would violate their civil liberties through gang, drug or
11 prostitution loitering. The Chief of Police shall by written directive promulgate
12 procedures to prevent the enforcement of this ordinance against persons who are engaged
13 in collective advocacy activities that are protected by the Constitution of the United
14 States or the State of Missouri. Nothing herein shall prevent any person from obtaining a
15 permit from the City of St. Louis to engage in lawful loitering in an area designated as a
16 “no loitering” area, nor shall it prevent any person from engaging in any lawful activity.

17 SECTION SIX. Penalties.

18 Any person who violates the provisions of this ordinance within an area designated as a
19 “no loitering” area shall be guilty of a misdemeanor and upon conviction therefore shall
20 be punished by a fine of not less that one hundred dollars (\$100.00) nor more than five
21 hundred dollars (\$500.00) for each violation or by imprisonment for not less than five (5)
22 days nor more than ninety (90) days in jail for each violation or both such fine and
23 imprisonment. In addition to or instead of the above penalties, any person who violates

1 this ordinance may be required to perform one hundred (100) hours of community
2 service.

3 SECTION SEVEN. Parental Responsibility.

4 No parent, legal custodian or legal guardian shall permit a minor under the age of
5 seventeen (17) years to engage in gang, prostitution or drug loitering. Any parent, legal
6 custodian or legal guardian of a minor shall be held responsible for that minor's
7 violations of this ordinance and shall be subject to the penalties set forth in Section Six of
8 this ordinance if all of the following have occurred:

- 9 1. the parent, legal custodian or legal guardian has received written notice within
10 the preceding six (6) months that the minor for whom he/she is responsible
11 has engaged in gang, prostitution or drug loitering or has engaged in one of
12 the activities set forth in Section Two of this ordinance as a criminal act in the
13 definition of "criminal street gang activity"; and
- 14 2. the minor's violation of this ordinance occurs as a truant during school hours
15 in violation of ordinance 55528, or its successor ordinances; or during curfew
16 hours in violation of ordinance 63784, or its successor ordinances; or during
17 curfew hours for parks in violation of ordinance 58262, or its successor
18 ordinances.

19 SECTION EIGHT. Severability Clause.

20 The sections of this ordinance shall be severable. In the event that any section of this
21 ordinance is found by a court of competent jurisdiction to be invalid, the remaining
22 sections of this ordinance are valid, unless the court finds the valid sections of the
23 ordinance are so essential and inseparably connected with and dependent upon the void

1 section that it cannot be presumed that this Board of Aldermen would have enacted the
2 valid sections without the void ones, or unless the court finds that the valid sections
3 standing alone are incomplete and are incapable of being executed in accordance with the
4 legislative intent.

5 SECTION NINE. Emergency Clause.

6 This being an ordinance for the preservation of public peace, health, and safety, it is
7 hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of
8 Article IV of the Charter of the City of St. Louis and therefore shall become effective
9 immediately upon its passage and approval by the Mayor.

10