

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 16 OF THE OCEANSIDE CITY CODE BY THE ADDITION OF SECTIONS 16.7 THROUGH 16.10 RELATING TO DAYTIME LOITERING OF MINORS IN PUBLIC PLACES ON SCHOOL DAYS, AND THE AMENDMENT OF SECTION 16.2 RELATING TO DEFINITIONS OF WORDS USED IN CHAPTER 16.

WHEREAS, truancy has been linked to serious delinquent activity in minors and is an indicator of significant future negative behavior in adults;

WHEREAS, truancy is a contributing factor to substance abuse, gang activity, and involvement in daytime criminal activities such as burglary, auto theft and vandalism;

WHEREAS, poor self-esteem, lack of confidence, lack of respect for authority and domestic family issues are among the key indicators of developing truants;

WHEREAS, students who are absent from school are denied an education and unexcused absences result in a loss of state and federal funding to the detriment of all students;

WHEREAS, unsupervised students may involve themselves in unsafe activities by loitering in residential neighborhoods, business districts, or industrial centers;

WHEREAS, some unsupervised students may engage in criminal activity to the detriment of the community;

WHEREAS, jurisdictions that have adopted ordinances prohibiting daytime loitering and truancy have seen significant decrease in daytime burglary;

WHEREAS, some unsupervised students may become a burden on police who must return them to school, wait for parents to pick them up, and investigate any and all criminal activity related to the students' truancy;

WHEREAS, a special need exists for the adoption of a City ordinance to prohibit truancy of any minor person under the age of 18 who is subject to compulsory education or compulsory continuation education.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

1 SECTION 1. Sec. 16.2 of Chapter 16 of the Oceanside City Code is amended to read as
2 follows:

3 *Adult* means any person eighteen (18) years of age and older.

4 *Curfew hours* means the hours between 10:00 p.m. and 5:30 a.m. of the following day.

5 *Emergency* includes but is not limited to fire, natural disaster, automobile accident, or
6 requirement for immediate medical care for another person.

7 *Establishment* means any privately owned place of business operated for a profit to
8 which the public is invited, including but not limited to, any place of amusement or
9 entertainment.

10 *Guardian* means (1) a person who, under court order, is the guardian of the minor; or (2)
11 a public or private agency with which the court has placed a minor.

12 *Minor* means any person under the age of eighteen (18).

13 *Parent* means a person who is the natural, adoptive or step parent of a person. "Parent"
14 includes a court appointed guardian or other person eighteen (18) years of age or older,
15 authorized by the parent, by a court order, or by a court appointed guardian to have the care and
16 custody of the person.

17 *Public place* means a public place or any place open to the public or to which any
18 member of the public has access, including, but not limited to, any public right-of-way, public
19 grounds, dedicated open or trail space, or any privately owned land that is unsupervised and
20 from which the public is not expressly excluded under applicable trespass laws, including but
21 not limited to vacant lots, the parking lots and the common areas of schools, hospitals,
22 apartment houses, office buildings, housing complexes, shopping centers, and malls.

23 *Responsible adult* means a parent, guardian, or adult person at least twenty-one (21)
24 years old having the responsibility for the care, custody, and control of the subject minor.

25 SECTION 2. Chapter 16 of the Oceanside City Code is amended by adding SECTIONS
26 16.7, 16.8, 16.9 and 16.10 to read as follows:

27 SEC. 16.7. DECLARATION OF INTENT. The purpose of this Ordinance prohibiting
28 daytime loitering of minors in public places on school days is to reduce the incidence of

1 juvenile truancy that plagues our schools and creates a burden upon the health, safety and
2 welfare of the community. Students who are absent from school are denied an education;
3 unexcused absences result in a loss of state and federal funding to the detriment of all students;
4 unsupervised students may involve themselves in unsafe activities by loitering in residential
5 neighborhoods, business districts, or industrial centers; some unsupervised students may engage
6 in criminal activity to the detriment of the community; further some unsupervised students may
7 become a burden on police who must return them to school, wait for parents to pick them up,
8 and investigate any and all criminal activity related to the students' truancy. As a result,
9 therefore, the City Council of the City of Oceanside finds and determines that a special need
10 exists for the adoption of a City ordinance to prohibit truancy of any minor person under the age
11 of 18, who is subject to compulsory education or compulsory continuation education, with
12 certain specific exceptions set forth herein. It is further the intent of the City Council of the
13 City of Oceanside to provide appropriate criminal sanctions against any minor who violates the
14 provisions of this chapter.

15 SEC. 16.8. DAYTIME LOITERING OF MINORS IN PUBLIC PLACES ON SCHOOL
16 DAYS.

17 (a) It is unlawful for any minor who is subject to compulsory education or to
18 compulsory continuation education to loiter, idle, wander, or be in or upon the public streets,
19 highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public
20 buildings, or the premises of any establishment, vacant lots or any unsupervised place between
21 the hours of 8:30 a.m. and 1:30 p.m. on any day when school is in session for that minor.

22 (b) It is a defense to prosecution under Section 16.8(a):

23 (1) When the minor is accompanied by his or her parent or other adult having
24 the care or custody of the minor;

25 (2) When the minor is on an emergency errand directed by his or her parent or
26 other adult having care or custody of the minor;

27 (3) When the minor is going directly to, or coming directly from, his or her
28 place of school-approved employment;

1 (4) When the minor is going to, or coming directly from, a medical
2 appointment;

3 (5) When the minor has permission to leave the school campus for lunch and
4 has in his or her possession a valid, school-issued, off-campus permit;

5 (6) When the minor is going directly to, or coming from, a compulsory
6 alternative education program activity;

7 (7) When the minor is attending or, without any detour or stop, going to or
8 returning from an official school, religious, or government-sponsored activity, or other
9 recreational activity supervised by adults;

10 (8) When the minor is attending or, without detour or stop, going to or
11 returning from an event or activity directly related to the medical condition of a parent;

12 (9) When the minor is officially enrolled in home schooling;

13 (10) When the minor has passed a general educational development test and
14 received a California high school equivalency certificate;

15 (11) When the minor is exempt by law from compulsory education or
16 compulsory continuation education; or

17 (12) When the minor is authorized to be absent from his or her school pursuant
18 to the provisions of California Education Code section 48205, or any other applicable State or
19 Federal law.

20 SEC. 16.9. ENFORCEMENT PROCEDURE.

21 Upon any violation of section 16.8, a peace officer may issue a citation to the minor and
22 may detain the minor until he or she can be placed in the care and custody of his or her parent or
23 may transport the minor to his or her home or to the school from which the minor is absent. If
24 cited, the minor and a parent shall appear in court as directed in the citation. The parents may
25 be advised of the fact that the minor was cited for a violation of Oceanside City Code section
26 16.8.

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1 SEC. 16.10. PENALTIES.

2 A violation of section 16.8 is an infraction subject to the provisions of section 1.7(b)(3).
3 An infraction violation of section 16.8 may be punished by a fine not exceeding two hundred
4 fifty dollars (\$250.00) or by a requirement to perform county, city, or school-approved work
5 projects or community service or both. If required to perform a project, the total time for
6 performance shall not exceed twenty (20) hours over a period not to exceed sixty (60) days,
7 during times other than a minor's hours of school attendance or a minor's hours of employment.

8 SECTION 3. Severability.

9 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be
10 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
11 shall not affect the validity of the remaining portions of this Ordinance. The City Council
12 hereby declares that it would have passed this Ordinance and adopted this Ordinance and each
13 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,
14 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

15 SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this
16 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
17 days after its passage in the North County Times, a newspaper of general circulation published
18 in the City of Oceanside.

19 SECTION 5. This ordinance shall take effect and be in force on the thirtieth (30th) day
20 from and after its final passage.

21 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
22 California, held on the ___ day of _____, 2008, and, thereafter,

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1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside, California, held on the ____ day of _____, 2008, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

6 ABSTAIN:

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8 MAYOR OF THE CITY OF OCEANSIDE

9 ATTEST:

APPROVED AS TO FORM:

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11 _____
12 CITY CLERK

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CITY ATTORNEY

SMCA FOR

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