

ORDINANCE NO. 3259

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE CHAPTER 9.09
(TRUANCY) TO MODERNIZE AND UPDATE THE
ORDINANCE

WHEREAS, the provisions of the Chula Vista Municipal Code relating to juvenile truancy were originally passed in 1998 and needed to be updated and modernized; and

WHEREAS, this City Council recognizes the importance of ensuring that juveniles are attending school when they should be, alternative schooling or otherwise; and

WHEREAS, truant students may be denied an education, may cause the loss of state and federal funding to the detriment of all students, may involve themselves in unsafe or criminal activities affecting the entire community, and may become a burden on police resources; and

WHEREAS, U.S. Department of Education study in 1996 indicated that daytime crime dropped 68% after police began citing truant students; and

WHEREAS, a study in Los Angeles in 1996 detailed a similar drop in school hour crimes (residential burglaries decreased by 8.1%, vehicle burglaries decreased by 12.2%, shoplifting decreased by 18.1%, and overall theft-related crimes decreased by 9.6%) – this decrease was coupled with an increase in school attendance (2.4% in middle schools, and 2.9% in high schools); and

WHEREAS, other numerous national studies have cited links between juvenile truancy ordinance enforcement, increased attendance and reduced levels of substance abuse; and

WHEREAS, the City of Chula Vista has seen an increase in attendance since the original truancy ordinance was passed in 1998; and

WHEREAS, since enforcing the Chula Vista truancy ordinance beginning in 1998 the Chula Vista Police Department has seen a significant drop in the number of citations in recent years indicating the effectiveness of truancy enforcement.

NOW, THEREFORE, with the above recitations contained herein, the City Council of the City of Chula Vista does, hereby, ordain as follows:

Section I.

That Chapter 9.09 of the Chula Vista Municipal Code, with the above recitations incorporated herein, is hereby amended to read as follows:

Chapter 9.09

TRUANCY

Sections:

9.09.010 Purpose.

9.09.020 Definitions.

9.09.030 Truancy by minors in public places.

9.09.040 Responsibility of parent.

9.09.050 Enforcement procedure.

9.09.060 Penalties.

9.09.010 Purpose.

The purpose of this chapter relating to the daytime presence of truant minors outside of school on school days is to reduce the incidence of truancy that plagues our schools and creates a burden upon the health, safety, and welfare of the community. Students absent from school are denied an education; unexcused absences result in a loss of state and federal funding to the detriment of all students; unsupervised students may involve themselves in unsafe activities in residential neighborhoods, business districts, or industrial centers; some unsupervised students may engage in criminal activity to the detriment of the community; and further, 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 student's truancy. As a result, therefore, the City Council of the City of Chula Vista finds and determines that a special need exists for the adoption of a city ordinance to prohibit truancy by any minor under the age of 18, who is subject to compulsory education or to compulsory continuation education, with certain specific exceptions set forth herein. In addition, the city council desires to discourage parents from permitting, or by insufficient control, allowing such truancy. It is further the intent of the city council to provide appropriate criminal sanctions against any minor or parent who violates the provisions of this chapter.

9.09.020 Definitions.

For purposes of this chapter, the below terms are defined as follows:

A. "Alternative education" means an education program authorized pursuant to California Education Code Section 58500, et. seq., and offering an alternative structure, learning philosophy, or academic emphasis than that of traditional public schools. Alternative education is often characterized by responsiveness to instructional style differences, alternative scholastic schedules and small unit size. Alternative education programs include, but are not necessarily limited to, Community Day Middle School, the Portal, Bounce Back and MAST programs of the Sweetwater Union High School District, and others.

B. "Compulsory education," "compulsory continuation education" and "compulsory alternative education" mean any educational program authorized by a minor's school district and complying with California's compulsory education law requiring persons between 6 and 18 years of age to attend school full-time unless otherwise exempted.

C. "Emergency" means a situation in which property or human life is in jeopardy and prompt aid is essential, and includes, but is not limited to, fire, natural disaster, automobile accident, injury to person, and necessity for immediate medical care for another person.

D. "Home school instruction" means any private program of instruction authorized by the California Department of Education that designates the minor's home as a private school in accordance with California Education Code Section 48222, and provides compulsory instruction of the minor in his or her own home.

E. "Independent study" means an alternative instructional class or course of instruction authorized by a minor's school district in accordance with California Education Code Section 51745, et seq., and allowing for a minor's independent course of study according to a written agreement and under the general supervision of a credentialed teacher or teachers.

F. "Minor" means any person under 18 years of age.

G. "Parent" means the biological or adoptive parent of a minor or other lawful guardian.

H. "Public place" means any place to which the public has access and includes, but is not limited to, streets, highways, and those areas of schools open to the public, hospitals, office buildings, transportation facilities, shopping centers, and malls. (Ord. 2750 § 1, 1998).

I. "Session" means the hours of expected and established attendance in any week in which a San Diego County school is in session for at least one day.

9.09.030 Truancy by minors in public places.

A. It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education to be present in any public place or any place other than the minor's school or home between the hours of 8:30 a.m. and 1:30 p.m. when school is in session for that minor.

B. Subsection (A) of this section does not apply under any of the following circumstances:

1. When the minor is accompanied by his or her parent or guardian;
2. When the minor is undertaking an emergency errand directed by his or her parent or guardian or when the minor is acting in response to an emergency that threatens the safety or health of another;
3. When the minor is going directly to, or coming directly from, his or her place of school-approved employment;
4. When the minor is going directly to or coming directly from a medical appointment;
5. When the minor has permission to leave the school campus for lunch and has in his or her possession a valid, school-issued, off-campus permit;

6. When the minor is enrolled in alternative education pursuant to California Education Code Section 58500, et. seq., or continuation education pursuant to California Education Code Section 48400, et seq., and is not otherwise required to attend instruction;
7. When the minor is attending or, going directly to or returning directly from, an official school, religion, government-sponsored activity, or other recreation activity supervised by adults;
8. When the minor is obtaining or providing medical care of a parent or family member;
9. When the minor is registered as a student in an authorized Independent Study class or course of instruction in accordance with California Education Code Section 51745, et seq., and is not otherwise required to attend instruction;
10. When the minor is enrolled in private school, including home school instruction pursuant to California Education Code Section 48222, or is receiving instruction by a qualified tutor pursuant to California Education Code Section 48224, or is otherwise exempt by law from compulsory education or compulsory continuation education, and is not otherwise required to attend instruction;
11. When the minor is at least 16 years old, passed a California High School Proficiency Exam, and has parental consent to permanently leave school in accordance with California Education Code Section 48412; or
12. Is otherwise authorized to be absent from his or her school pursuant to the provisions of California Education Code Section 48205 or any other applicable state or federal law.

9.09.040 Responsibility of parent.

It is unlawful for the parent of any minor to knowingly permit or, by insufficient control, to allow the minor to be in violation of CVMC 9.09.030.

9.09.050 Enforcement procedure.

A. Upon any violation of CVMC 9.09.030, a peace officer may issue a citation to the minor and may detain the minor until he or she can be placed in the care and custody of his or her parent or may transport the minor to his or her home or to the school from which the minor is absent. If cited, the minor and a parent shall appear in court as directed in the citation. The parent shall be advised of the fact that the minor was cited for a violation of CVMC 9.09.030. The parent shall be warned of his or her responsibility and liability as the minor's parent.

B. If a parent has been previously warned as set forth in subsection (A) of this section, a peace officer may issue a citation for an infraction, in violation of CVMC 9.09.040, to the parent to appear in court.

C. When a parent has previously been issued a citation for an infraction as set forth in this section, upon any subsequent violation by a parent of CVMC 9.09.040, a peace officer may issue a citation for a misdemeanor to the parent of the minor to appear in court.

9.09.060 Penalties.

A. Any parent or minor convicted of an infraction for violation of CVMC 9.09.030 or 9.09.040 may be punished by a fine not exceeding \$100.00 for a first violation; \$200.00 for a second violation within the 12 calendar months of the first violation; \$500.00 for each additional violation occurring after the second violation and within 12 months of any prior violation; and/or by a requirement to perform county, city, or school-approved work projects or community service or both. If required to perform a project or community service, the total time for performance shall not exceed 60 days, during times other than a minor's hours of school attendance or a minor or parent's hours of employment.

B. Any parent convicted of a misdemeanor violation of CVMC 9.09.050(C) may be punished by imprisonment in the county jail for a period of time not exceeding six months or by a fine not exceeding \$1,000 or both.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date


This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

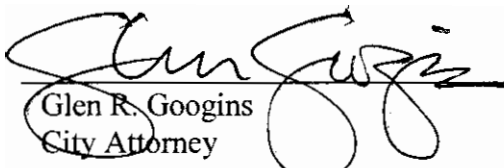
The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by



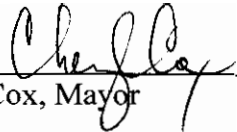
David Bejarano
Police Chief



Glen R. Googins
City Attorney


PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 19th day of March 2013, by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas and Cox
NAYS: Councilmembers: None
ABSENT: Councilmembers: None



Cheryl Cox, Mayor

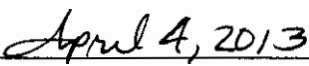
ATTEST:



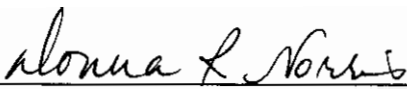
Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3259 had its first reading at a regular meeting held on the 5th day of March 2013 and its second reading and adoption at a regular meeting of said City Council held on the 19th day of March 2013; and was duly published in summary form in accordance with the requirements of state law and the City Charter.



Dated



Donna R. Norris, CMC, City Clerk