

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 7.23 (TRUANCY PROHIBITED) TO TITLE 7 OF
THE SAN LUIS OBISPO COUNTY CODE

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1:

Chapter 7.23 is added to Title 7 of the County Code to read as follows:

Chapter 7.23

TRUANCY PROHIBITED

Sections:

- 7.23.010 Purpose and intent.**
- 7.23.020 Unlawful conduct.**
- 7.23.030 Exceptions.**
- 7.23.040 Procedures of offense and penalties for violation.**
- 7.23.050 Severability.**

7.23.010 Purpose and intent.

The purpose of this truancy ordinance is to reduce the incidents of truancy that create a burden upon the health, safety, and welfare of the community. State law provides that all persons between the ages of six and eighteen years of age are subject to compulsory full-time education, unless exempted. Regular school attendance provides important benefits not only to the students themselves but also the health, safety, and welfare of all residents within the county.

The community as a whole suffers when a minor student is not attending school. Students who are absent from school are more likely to participate in unlawful activities and to become victims of crime. Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the minor, and can lead to vandalism, petty theft, daytime burglaries, and other unlawful activities. In addition, truants often tend to loiter in and about public places, and can impose an extraordinary burden on the resources of law enforcement because minors taken into custody must be supervised by law enforcement personnel until they are transported and released to a parent or legal guardian. Personnel supervising these minors are then unavailable to carry out law enforcement duties in the field thereby decreasing the level of protection afforded to the community.

This ordinance is designed to provide protection for the community and public property from the deleterious effects of truancy. This ordinance is not intended to abridge or interfere with the lawful rights of parents or other legal guardians or to contravene or supersede state laws in dealing with such matters. It is not intended to interfere with or supersede the enforcement of those state laws regulating education or truancy or with any truancy programs in existence within the County.

7.23.020 Unlawful conduct.

It shall be unlawful for any minor under the age of 18 years who is subject to compulsory education or to compulsory continuation education pursuant to Education Code Sections 48200 and 48400, as amended from time to time, to be present in or upon any public street, avenue, highway, road, curb area, alley, park, playground, wharf, dock, public ground, public place or public building, place of amusement or eating place, place of entertainment, parking lot, vacant lot, or unsupervised place in the county during the hours of the day when the school, which the minor would normally attend, is in session, on days when that school is in session. This section shall also apply to minors whose enrollment status is that of suspension, expulsion, or transfer in progress.

7.23.030 Exceptions.

The provisions of Section 7.23.020 shall not apply when:

- (1) The minor is with or under the direct supervision of his or her parent, guardian, or other adult person having the care or custody of the minor; or
- (2) The minor is authorized to be absent pursuant to the provisions of Education Code Section 48205(a), as amended from time to time, or any other applicable state or federal law; or
- (3) The minor is exempt by law from compulsory education as enumerated in the Education Code, or is otherwise exempt from attendance at a public or private full-time day school as set forth in the Education Code including, without limitation, a minor receiving instruction at home; or
- (4) The minor is exempt by law from compulsory continuation education as enumerated in Education Code Section 48410, as amended from time to time; or
- (5) The minor is on an emergency errand directed by his or her parent, guardian, or other adult person having care or custody of the minor; or
- (6) The minor is going directly to or coming directly from a medical appointment or that of the minor's dependent child and can show proof of that medical appointment; or

- (7) The minor has permission to leave the school campus for lunch and has in his or her possession a valid off-campus permit or pass issued by the school (if one is required by that school) and the minor has conformed with the conditions and restrictions, if any, of the off-campus permit or pass; or
- (8) The minor is going directly to or returning from an event or activity sponsored, sanctioned, or arranged by the school in which the minor is authorized to participate or the minor is otherwise under the supervision of school personnel; or
- (9) The minor has written permission to leave campus and has in his or her possession a valid, school-issued, off-campus permit; or
- (10) The minor is engaging in rights protected by the United States or California Constitutions such as the free exercise of religion, freedom of speech and the right of assembly; or
- (11) The minor is not a resident of San Luis Obispo County and possesses a valid passport, visitor's visa or other form of identification to establish the minor is temporarily visiting within the county; or
- (12) The minor is in a motor vehicle involved in interstate travel.

7.23.040 Procedures for offense and penalties for violation.

Any minor violating Section 7.23.020 is guilty of an infraction punishable by (1) a fine not to exceed one hundred dollars (\$100), plus court costs, and/or ten (10) hours of community service, as approved by the court, for the first violation; (2) a fine not to exceed two hundred fifty dollars (\$250), plus court costs, and/or twenty-five (25) hours of community service, as approved by the court, for the second violation; and (3) a fine not to exceed five hundred dollars (\$500), plus court costs, and/or fifty (50) hours of community service, as approved by the court, for the third and subsequent violation of Section 7.23.020. Community service shall be served during a time other than the minor's hours of school attendance or employment.

Law enforcement personnel are authorized to temporarily detain any minor upon a reasonable suspicion based on articulable facts that the minor is in violation of Section 7.23.020, and to transport that minor to his or her place of permanent or temporary residence within the state, whether the place of residence is located within or outside of the jurisdiction, or to the school from which the minor is absent, or to the custody of his or her parents or legal guardian. Before taking any action under this section, a law enforcement officer shall ask the apparent minor his or her age and reason for being out in a public place during school hours. A law enforcement officer may decide not to temporarily detain and transport a minor if he or she determines that the minor has a legitimate reason based on extenuating circumstances for violating this chapter.

7.23.050 Severability

If any section, subsection, clause, or phrase or portion of this chapter is, for any reason, held to be unconstitutional or invalid by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The board of supervisors declares that it would have passed the ordinance codified in this chapter and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions is declared invalid or unconstitutional.

SECTION 2:

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

INTRODUCED at a regular meeting of the Board of Supervisors held on the _____ day of _____, 2011, and PASSED and ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California on the _____ day of _____, 2011, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

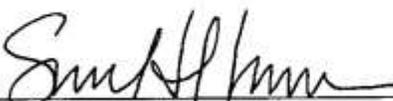
ABSTAINING:

Chairperson of the Board of Supervisors,
County of San Luis Obispo, State of California

ATTEST:

County Clerk and Ex-Officio Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:
Warren R. Jensen, County Counsel

By: 
Deputy County Counsel

Dated: 1/5/11