

CITY OF YUBA CITY
STAFF REPORT

Date: October 21, 2008
To: Honorable Mayor & Members of the City Council
From: Yuba City Police Department
Presentation By: Robert D. Landon, Deputy Chief of Police

Summary

Subject: CONDUCT A PUBLIC HEARING FOR AN INTRODUCTION OF AN ORDINANCE PROHIBITING DAYTIME LOITERING OF MINORS IN PUBLIC PLACES DURING SCHOOL HOURS.

Recommendation: Staff recommends that the City Council conduct a public hearing to introduce an ordinance adding chapter 8A of Title 5 to the Yuba City Municipal Code pertaining to Daytime Loitering and Truancy of Juveniles and waive the first reading.

Fiscal Impact: The Police Department does not anticipate additional costs to enforce the proposed ordinance.

Background: In 2003 a study by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) discovered that truancy, or unexcused absences from school, have been linked to serious delinquent activity in youth and is an indicator of significant future negative behavior in adults. The study cited truancy to be a contributing factor to substance abuse, gang activity, and involvement in daytime criminal activities such as burglary, auto theft and vandalism. The Yuba City Police Department has had several cases in the past year (2008) where daytime burglaries were attributed to juveniles during the hours of school, with 5 arrests made (3 of these suspects were validated to be gang members).

Milwaukee, Wisconsin has experienced a 33 percent decrease in daytime burglary and a 29 percent decrease in daytime aggravated batteries since the implementation of a truancy initiative. Rohnert Park, California, saw a 75 percent lower daytime burglary rate after they began their truancy program titled "Stop, Cite, and Return." Peoria, Arizona, implemented "Operation Save Kids" which targets truancy and has seen a 65 percent decrease in their daytime burglary.

Current state law allows police officers to stop and detain individuals who appear to be minor truants from school. The Education and the Welfare and Institutions Code violations do not provide criminal penalties. As a result, police officers currently have the authority to stop and detain minors to determine their truancy status and return to school those students determined to be truant; however because there is no criminal penalty imposed, there is no intervention in the form of required judicial appearance or criminal penalties when appropriate.

The Student Attendance Review Board (SARB) is currently utilized to identify chronic truants. SARB consists of representatives from the school district, the police department, the juvenile justice system and social services to work with the truant and his/her family to get the student back to school. Unfortunately this happens after the student is identified as a chronic truant. Enactment of the proposed ordinance would change this and allow early identification and intervention.

In addition the County of Sutter and the Yuba City Unified School District strongly support and were a part of a committee formed to draft this ordinance. It is anticipated that a similar ordinance will be presented to the Sutter County Board of Supervisors in order to ensure continuity of enforcement throughout the County of Sutter and City of Yuba City.

Currently the City of Yuba City has an existing Nighttime Curfew ordinance that deals with juveniles loitering between the hours of 10:00 pm and 5 am in chapter 8 of Title 5 in the Yuba City Municipal Code. The Daytime Loitering and Truancy of Juveniles ordinance would add chapter 8A to the existing chapter on Nighttime Curfew and address the concerns listed above in dealing with juveniles loitering during hours of school and truants.

Analysis:

The proposed addition of Chapter 8A of Title 5 to the Municipal Code would give officers who identify a student as a truant the authority to:

- Issue a citation to any juvenile, parent, guardian, caretaker or individual found to be in violation of this chapter and allow them to detain the juvenile until he or she can be placed into the care and custody of a parent or legal guardian; or allow the officer to transport the juvenile to his or her home or to school from which the juvenile is absent. The peace officer may also notify the parent or legal guardian that the juvenile has been issued a citation. If cited, the juvenile and a parent or legal guardian shall appear in court as directed by the citation. A juvenile convicted of violating this chapter may be fined an amount not to exceed two hundred and fifty dollars (\$250.00) or they may be required to perform county or school-approved work projects or community service or both. The amount

of time for this community service shall not exceed twenty hours (20)

- Contact the student's parent(s) and educate them about their responsibilities as outlined in the ordinance. If an adult is aiding or abetting the juvenile, issue the parent a citation for an infraction. A conviction on the charges from the citation shall not exceed two hundred and fifty dollars (\$250.00).

The ordinance is necessary to:

- Protect minors from becoming crime victims
- Prevent minors from taking part in criminal activity
- Identify and deter minors from becoming chronic truants
- Ensure early truancy intervention to provide education to the minor and his/her family.
- Support current state statutory mandates with a city ordinance for enforcement.

Fiscal Impact:

The Police Department does not anticipate additional costs to enforce the proposed ordinance.

Alternatives:

Leave existing curfew ordinance in place as written.

Recommendation:

Staff recommends that the City Council conducts a public hearing to introduce an ordinance adding chapter 8A of Title 5 to the Yuba City Municipal Code pertaining to Daytime Loitering and Truancy of Juveniles and waive the first reading.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF YUBA CITY
ADDING CHAPTER 8A OF TITLE 5 TO THE YUBA CITY MUNICIPAL CODE
PERTAINING TO DAYTIME LOITERING AND TRUANCY OF JUVENILES**

THE CITY COUNCIL OF THE CITY OF YUBA CITY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8A of the Yuba City Municipal Code is hereby added to Title 5 to read as follows:

CHAPTER 8A

DAYTIME LOITERING AND TRUANCY OF JUVENILES

Sections:

5-8A.010	Declaration of Intent
5-8A.020	Definitions
5-8A.030	Daytime Loitering or Truancy
5-8A.040	Parental, Guardian and Caretaker Responsibility
5-8A.050	Violation, Enforcement and Penalties

Section 5-8A.010 Declaration of Intent. The purpose of this ordinance is to reduce the incidents of juvenile loitering and truancy that create a burden upon the health, safety and welfare of the community. Students who are absent from school are more likely to participate in unlawful activities and to become victims of crime. In addition, they impose an extraordinary burden on the manpower and resources of law enforcement because juveniles taken into custody must be supervised by law enforcement personnel until they are released to a parent or guardian. Personnel supervising these juveniles are then unavailable to carry out law enforcement duties in the field thereby decreasing the level of protection afforded to the community. The City Council finds that having an enforceable juvenile loitering and truancy ordinance is critical to addressing these concerns and determines that a special need exists for the adoption of such an ordinance.

Section 5-8A.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) "Adult" means any person who is eighteen (18) years of age and older or who is emancipated pursuant to law.

(b) "Caretaker" means any person who is eighteen (18) years of age or older, other than the juvenile's parent or legal guardian, who has been given and has accepted responsibility for the care, custody and control of the juvenile by the juvenile's parent or legal guardian.

(c) "Emergency" means the unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to fire, natural disaster, automobile accident or requirement for immediate medical care for another person.

(d) "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

(e) "Guardian" means a person who, or private agency that, under court order, has been named the guardian of the juvenile.

(f) "Juvenile" means any person less than eighteen (18) years of age who is not emancipated pursuant to law.

(g) "Loitering" means to linger or hang around in a public place or establishment where one has no particular or legal purpose.

(h) "Parent" means a person who is the natural or adoptive mother or father of a person.

(i) "Public place" means any place to which the public has access and includes but is not limited to public streets, highways, roads, alleys, parks, playgrounds, public buildings, public right-of-ways, public grounds, dedicated open or trail space, or privately owned land that is unsupervised and from which the public is not expressly excluded under applicable trespass laws, including but not limited to vacant lots, parking lots and the common areas of hospitals, apartment complexes, housing complexes, office buildings, transport facilities, shopping centers and malls. For the purposes of this chapter, public place shall not include the buildings, grounds or facilities of the school which the juvenile is required to attend but shall include the buildings, grounds and facilities of schools in which the juvenile is not enrolled.

(j) "Truancy" means the act or condition of being absent from school without permission by one who is subject to compulsory full-time education or to compulsory continuation or alternative education under state law.

Section 5-8A.030 Daytime Loitering or Truancy

It is unlawful for any juvenile, who is subject to compulsory full-time education or to compulsory continuation, or alternative education under state law, to loiter in, or upon, any establishment or public place during the hours of 8:30 a.m. and 2:00 p.m., on any day when that juvenile would otherwise be required to attend school. The provisions of this section shall not apply if:

- (a) The juvenile is accompanied by his or her parent, legal guardian or caretaker; or
- (b) The juvenile is on an emergency errand directed by a parent, legal guardian or caretaker; or
- (c) The juvenile is going to or coming directly from his or her place of school-authorized employment; or
- (d) The juvenile is going to or from a medical, dental, optometry, or chiropractic appointment; or

(e) The juvenile is a student who has permission to leave the school campus for lunch or school related activity and has in his or her possession a valid, school-issued, off-campus permit; or

(f) The juvenile is going to or coming from a compulsory alternative education program activity; or

(h) The juvenile is attending or, without any detour or stop, going to, or returning from, an event or activity directly related to the medical condition of the parent, legal guardian or child of whom the juvenile is the custodial parent; or

(i) The juvenile is officially enrolled in home schooling; or

(j) The juvenile is exempt by law from compulsory education, continuation education or alternative education; or

(k) The juvenile is 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, or

(g) The juvenile is, without any detour or stop, going to or returning from any event or activity authorized by the provisions of California Education Code Section 48205 or any other applicable state or federal law.

(h) The school which the juvenile is required to attend is not in session.

Section 5-8A.040 Parental, Guardian and Caretaker Responsibility. It is unlawful for the parent, legal guardian or caretaker of any juvenile to knowingly permit or, by insufficient control, to allow the juvenile to be in violation of Section 5-8A.030 of this chapter.

Section 5-8A.050 Violation, Enforcement and Penalties.

A. Violation. Any person who willfully violates any of the provisions of this chapter is guilty of an infraction, except that nothing herein shall be deemed to bar any legal, equitable, or summary remedy to which the City of Yuba City may be entitled.

B. Aiding and Abetting. Any person who willfully permits, aids, abets, allows or encourages any juvenile to violate any of the provisions of this chapter is guilty of an infraction, except that nothing herein shall be deemed to bar any legal, equitable, or summary remedy to which the City of Yuba City may be entitled.

C. Enforcement. A peace officer may issue a citation to any juvenile, parent, guardian, caretaker or individual found to be in violation of this chapter and may detain the juvenile until he or she can be placed into the care and custody of a parent or legal guardian; or may transport the juvenile to his or her home or to the school from which the juvenile is absent. The peace officer may also notify the parent or legal guardian that the juvenile has been issued a citation. If cited, the juvenile and a parent or legal guardian shall appear in court as directed by the citation.

D. Penalties.

(1) Any juvenile convicted of violating this chapter may be punished by the imposition of a fine not exceeding two hundred and fifty dollars (\$250.00) or may be required to perform county or school-approved work projects or community service or both. If required to perform a project, the total time for performance shall not exceed twenty (20) hours over a period not to exceed sixty (60) days, during times other than a juvenile's hours of school attendance or juvenile, parent or legal guardian's hours of employment.

(2) Any parent, legal guardian, caretaker or individual convicted of violating this chapter may be punished by the imposition of a fine not exceeding two hundred and fifty DOLLARS (\$250.00).

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall become effective thirty (30) days after its adoption and within fifteen (15) days of the passage of this ordinance, a copy shall be published once in the Appeal Democrat, a newspaper of general circulation in the City of Yuba City.

Introduced and read at a regular meeting of the City Council of the City of Yuba City on the 21st day of October, 2008, and adopted at a regular meeting thereof held on ____ day of _____, 2008.

AYES:
NOES:
ABSENT:

Rory Ramirez, Mayor

ATTEST:

Terrel Locke, City Clerk

APPROVED AS TO FORM:

Timothy P. Hayes
City Attorney