

ORDINANCE NUMBER 1267

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS AMENDING PERRIS MUNICIPAL CODE, CHAPTER 9.28 RELATING TO DISORDERLY CONDUCT, LOITERING AND TRESPASSING, AMENDING CHAPTER 9.32 RELATING TO INTOXICATION, AND AMENDING CHAPTER 9.52 RELATING TO TRUANCY OF MINORS.

WHEREAS, the City Council of the City of Perris (“City Council”) duly adopted Ordinance No. 956 in 1993 relating to Chapter 9.28 of the Perris Municipal Code (“PMC”), which provides for definitions and prohibits disorderly conduct, loitering and trespassing, and duly adopted Ordinance No. 130 in 1946 relating to Chapter 9.32 which provides for definitions and prohibits the public consumption, furnishing and display of alcohol; and

WHEREAS, the City Council duly adopted Ordinance No. 956, in 1993 adding section 9.28.070 of the PMC and making violations of Chapter 9.28 a misdemeanor, and duly adopted Ordinance No. 130, in 1946 of the PMC adding section 9.32.090 of the PMC and making violations of Chapter 9.32 a misdemeanor; and

WHEREAS, the City desires to amend the sections of Chapters 9.28, 9.32 and 9.52 to allow law enforcement and city prosecutors to efficiently and cost-effectively carry out the provisions of the PMC as well as to ensure penalties for the disorderly conduct, loitering and trespassing, illegal consumption or possession of alcohol, and truancy of minors are fairly administered in accordance with the degree of violation and in accordance with the law and thus, alleviate any threat to public peace, health and safety of the City; and

WHEREAS, the City Council desires to update sections 9.28.010 of the PMC, as described below, to become consistent with current law including governing case law, California Penal Code section 647(f); and

WHEREAS, the City Council desires to update sections 9.32.040, 9.32.050, 9.32.060 and 9.32.070 of the PMC, as described below, to become consistent with current law including governing case law, California Business & Professions Code section 25620 and California Vehicle Code sections 232221 and 23222; and

NOW, THEREFORE, the City Council of the City of Perris, California, **DOES HEREBY ORDAIN**, as follows:

Section 1. Recitals. The City Council of the City of Perris finds that the above recitals are true and correct.

Section 2. Section 9.28.010(A)(1) of Chapter 9.28 of Title 9 is hereby amended to state, in its entirety, as follows:

“1. Soliciting anyone to engage in or engaging in lewd or dissolute conduct in any public place open to the public or exposed to public view. As used in this subdivision, “lewd or dissolute” means to engage in conduct that involves the touching of genitals, buttocks or female breasts.”

Section 3. Section 9.28.010(A)(3) of Chapter 9.28 of Title 9 is hereby deleted and replaced with, in its entirety, as follows:

“3. Soliciting anyone to engage in or engaging in conduct that recklessly endangers the public safety of the individual or other persons.”

Section 4. Section 9.28.070 of Chapter 9.28 of Title 9 of the PMC is hereby amended to state, in its entirety, as follows:

“9.28.070 Violations—Penalty.

- A. Any person violating any provision of this Chapter or failing to comply with any of the requirements herein is guilty of a misdemeanor which may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.
- B. Each violation of the provisions of this section will constitute a separate offense.
- C. Any parent, guardian or other adult person appointed by the minor's parents to have the care and custody of the minor in the parents' absence coming within the provisions of this chapter who violates any of the provisions hereof shall also be guilty of a misdemeanor which may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.
- D. It shall not constitute a defense hereto that such parent, guardian or other person appointed by the minor's parents to have the care and custody of the minor in the parents' absence coming within the provisions of this chapter, did not have knowledge of the presence of the minor in or upon any streets, alleys, highways, roads, public places, vacant lots, or other unsupervised places in violation of the chapter thereof.”

Section 5. Section 9.32.040 of Title 9 of Chapter 9.32 of the PMC is hereby amended to state, in its entirety, as follows:

“9.32.040 Alcoholic beverage—Furnishing to others.

Except in or upon those public places where the drinking or consumption of alcoholic beverages is expressly permitted by law, it is unlawful for any person or persons while in or upon any public park, street, alley, highway, or other public place, to offer or furnish or give, or cause to be offered or furnished or given, any alcoholic beverages

that has been opened, or a seal broken, or the contents of which have been partially removed, to any other person or persons with the intention that such other person or persons drink or consume said alcoholic beverages while such other person or persons are in or upon any public park, street, alley, highway, or other public place. This section shall be punishable as an infraction in accordance with section 1.16.010 (B)."

Section 6. Section 9.32.050 of Chapter 9.32 of Title 9 of the PMC is hereby amended to state, in its entirety, as follows:

“9.32.050 Alcoholic beverages – Consumption in the vehicles in a public parking lot prohibited.

It is unlawful for any person or persons to consume or attempt to drink or consume any alcoholic beverages while such person or persons are in or upon any vehicle which is either standing or parked in or upon any public parking lot.

Section 7. Section 9.32.060 of Chapter 9.32 of Title 9 of the PMC is hereby deleted in its entirety.

Section 8. Section 9.32.070 of Chapter 9.32 of Title 9 of the PMC is hereby amended to state, in its entirety, as follows:

“9.32.070 Alcoholic beverage—Possession of open containers restrictions.

It is unlawful for any person or persons to possess any alcoholic beverages that has been opened, or a seal broken, or the contents of which have been partially removed, while such person or persons are upon or in or over any public park, street, alley, highway or other public place, except those public places wherein or whereat the drinking and consuming of alcoholic beverages is expressly permitted by law. This section shall be punishable as an infraction in accordance with section 1.16.010 (B)."

Section 9. Section 9.32.090 of Chapter 9.32 of Title 9 of the PMC is hereby amended to state, in its entirety, as follows:

“9.32.090 Violations—Penalty.

With the exception of sections 9.32.040 and 9.32.070, any person violating any provision of this Chapter or failing to comply with any of the requirements herein is guilty of a misdemeanor which may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.”

Section 10. Section 9.52.010(C) of Chapter 9.52 of Title 9 of the PMC is hereby amended to state, in its entirety, as follows:

“C. Any minor who violates this section is guilty of a misdemeanor which may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.”

Section 11. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 12. Certification. The City Clerk shall certify as to the passage and adoption of this ordinance and shall cause the same to be posted at the designated locations in the City of Perris. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

PASSED, APPROVED, and ADOPTED as an **ORDINANCE** this 11th day of May, 2010.

Mayor, Daryl R. Busch

ATTEST

City Clerk, Judy L. Haughney, C.M.C.

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1267, introduced at a regular meeting of the City Council of the City of Perris held on the 27th day of April, 2010, was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 11th day of May, 2010, by the following vote:

AYES: EVANS, LANDERS, YARBROUGH, BUSCH
NOES: NONE
ABSENT: ROGERS
ABSTAIN: NONE

City Clerk, Judy L. Haughney, C.M.C.