

ORDINANCE NO. 2004 - 11 - 08
TRUANCY FOR MINORS

SECTION I. A DECLARATION OF FINDINGS AND POLICY

WHEREAS, **Bear River City** desires to enhance the safety of the community and of its youth; and

WHEREAS, a significant percentage of crime committed during school hours is committed by school age youth who are truant; and,

WHEREAS, the **Bear River City** Council of Box Elder County finds that enhancing the safety of our community and youth requires the efforts of parents, businesses, schools and the city; and

WHEREAS, legitimate reasons for compulsory school age youth to be in public areas during school hours are few.

THEREFORE, the **Bear River City** Council of Box Elder County finds that it is in the best interest of **Bear River City** of Box Elder County and the citizens thereof to establish a truancy ordinance.

SECTION II. _____ TRUANCY FOR COMPULSORY SCHOOL AGE MINORS

DEFINITIONS. In this section:

- (1) "Assigned school location" means the location where a student would be assigned, registered, or released to attend during compulsory school time when the class or activity is in session.
- (2) "Authorization" means a permission slip given by a school authority to excuse a student from being in the usual assigned school location in accordance with school policy, or a note from the parent or guardian giving permission for the student to be absent from class. The permission slip must be in the immediate possession of the student whenever not at the expected school location.
- (3) "Compulsory school age minor" means a person not less than six nor more than eighteen years of age that is not exempted and must be attending a public or regularly established private school during the school year of the district in which the minor resides pursuant to Utah Compulsory Education Requirements, Utah Code Ann. 53A-11-101 to -106
- (4) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious injury or loss of life.
- (5) "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.
- (6) "Guardian" means:
 - (a) person who, under court order, is the guardian of the person of a minor; or
 - (b) a public or private agency with whom a minor has been placed by a court.
- (7) "Minor" means any person under 18 years of age.
- (8) "Open Campus" means when a compulsory school age minor is allowed by school officials to leave school for lunch purposes.
- (9) "Operator" means any individual, firm, association, partnership, or corporation, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (10) "Parent" means a person who is:
 - (a) a natural parent, adoptive parent, or step-parent of another person; or
 - (b) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (11) "Public Place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, the common areas of schools, hospitals, office and commercial buildings, public transit buses and property, and apartment houses.
- (12) "Remain" means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (13) "Serious bodily injury" means bodily injury that creates a substantial risk of death, or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

- (14) "Truancy hours" means those hours in which a compulsory school age youth should be attending school in the district or jurisdiction in which the student attends school.

B. Offenses:

- (1) A compulsory school age minor commits an offense if he or she remains in any public place, is not in his assigned location at school, or is on the premises of any establishment within the city limits during truancy hours.
- (2) A parent or guardian of a minor commits an offense if he or she knowingly permits, aides, encourages or allows a compulsory school age minor, to remain in any public place or on the premises of any establishment within the city during truancy hours.
- (3) Any person commits an offense if he or she engages in any conduct for the purpose of, or resulting in inducing any compulsory school age minor to leave or be absent from said compulsory school age minor's assigned school location during truancy hours.

C. Defenses:

- (1) It is a defense to prosecution under Subsection (B) that the compulsory school age minor was:
- A. accompanied by the minor's parent or guardian;
 - B. involved in an emergency;
 - C. following school policy regarding open campus for lunch, off campus school-approved classes and activities, or any other legitimate school sanctioned off-campus function, and has on his/her person legal authorization of permission by the school or his/her parent or guardian; or
 - D. married or has been married or has disabilities of minority removed in accordance with state law.
- (2) It is a defense to prosecution under Subsection (B-2) that the parent or guardian of a compulsory school age minor has met in cooperation with the proper school authorities within 14 days of notification in response to each certified letter from the court notifying them that their child has received a truancy citation.
- (3) It is a defense to prosecution under Subsection (B-3) that the owner, operator or employee of an establishment, or owner of a private residence, promptly notified the police department that a compulsory school age minor was present on their premises during truancy hours and refused to leave.

D. Enforcement

Before taking any enforcement action under this section, an identified police officer shall ask the apparent offender's age and reason for going in the public place. Citations shall direct the apparent offender to either the Juvenile Court or the appropriate Justice Court upon the apparent offender's signature and promise to appear. If the apparent offender fails to appear, the court will notify the parent or guardian of a compulsory school age minor by certified letter that a truancy citation has been issued to said minor and that the minor's appearance is required under either the Utah Rules of Juvenile Procedure, or the Utah Rules of Criminal Procedure.

E. Penalties

Violation of this chapter is an infraction. A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense of a minor, upon conviction, is punishable by a fine of \$50 or not to exceed \$500. A third offense by an adult is subject to the provisions of state law.

This ordinance becomes effective upon passage.

Passed this 18th day of November 2004 by 4 Yes votes and 0 No votes with 0 Abstentions.

Attested:


Gil Miller - Mayor


Carol S. Andreasen - City Recorder

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CERTIFICATE OF POSTING ORDINANCE

I, the duly appointed and acting recorder for the City of Bear River, hereby certify that copies of the foregoing Ordinance No. 2004-11-08 (TRUANCY FOR MINORS) were posted at three public places within the municipality this 23 day of November 2004 which public places are:

1. Bear River City Civic Center
2. Bear River City Town Hall Bulletin Board
3. Bear River City Post Office

Dated this 23 day of November, 2004.

Carol S. Andreasen
Carol S. Andreasen, City Recorder