

URGENCY ORDINANCE NUMBER 1302

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ADDING CHAPTER 7.36 AND AMENDING SECTION 7.02.010 OF THE PERRIS MUNICIPAL CODE RESTRICTING THE USE OF OFF-HIGHWAY VEHICLES AND DECLARING SUCH USE A PUBLIC NUISANCE

WHEREAS, the City Council of the City Perris (“City”) has received numerous complaints from its residents regarding the nuisance conditions created by the operation of off-highway vehicles within the City, including, but not limited to, the increase in noise and dust, the exacerbation of safety concerns and incidents of trespassing and burglarizing residents’ homes, the depreciation of property values and the destruction of the City’s natural environment; and

WHEREAS, specifically, the Riverside County Sheriff’s Department has received 19 calls for service since October 2013 from the Monument Park community in regards to excessive noise and dust complaints generated from off-highway vehicle use; and

WHEREAS, pursuant to Article XI, Section 7, of the Constitution of the State of California, the City is authorized to adopt and enforce regulations for the protection of the public health, safety and welfare that are not in conflict with the general laws of the State; and

WHEREAS, pursuant to Section 38301 of the California Vehicle Code, the City is authorized to adopt special regulations related to the operation of off-highway vehicles on public lands; and

WHEREAS, Section 38771 of the California Government Code permits the City Council to determine what constitutes a nuisance; and

WHEREAS, restricting the operation of off-highway vehicles within the City, including public and private lands, will protect the health, safety and welfare of the City’s residents and visitors currently and as the City faces rapid urbanization; and

WHEREAS, adding Chapter 7.36 to the Perris Municipal Code will restrict off-highway vehicle use and will permit law enforcement and City prosecutors to efficiently carry out the provisions of the Perris Municipal Code relating to off-highway vehicle use, and thereby alleviate any threat to public peace, health, and safety of the City caused by such use; and

WHEREAS, pursuant to Sections 36934 and 36937 of the California Government Code, the City may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety; and

WHEREAS, all other legal prerequisites to the adoption of this Urgency Ordinance have occurred.

NOW THEREFORE, the City Council of the City of Perris, California hereby ordains as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Effectiveness of Ordinance. This Urgency Ordinance shall be effective immediately upon adoption pursuant to the authority conferred upon the City Council by California Government Code Section 36937.

Section 3. Urgency Declaration. The City Council finds and determines that the proposed amendments to the Perris Municipal Code will impose certain controls on off-highway use of motor-driven vehicles and motorcycles on private and public property of the City. Off-highway vehicle use has led to several burglary incidents, as well as a marked increase in noise and dust pollution, an exacerbation of safety concerns, depreciation of property values and a destruction of the City's natural environment. Residents report serious health effects, including asthma attacks requiring hospitalization, due to the increased dust by off-highway vehicle use. Thus, the City Council desires to take immediate action to restrict this activity and declares the urgency of this Ordinance to curb the recent rise in burglary incidents and increased pollution.

Section 4. Urgency Findings. The City Council finds and determines that adoption of this Ordinance is for the immediate preservation of the public peace, health and safety, as those terms are defined in California Government Code Section 36937(b) in the following respects:

1. The off-highway operation of licensed and unlicensed motorcycles and other motor-driven vehicles on private property and public property in the City:
 - a. Can generate excessive amounts of irritating dust, noxious exhaust fumes and noise;
 - b. Creates a high risk of igniting brush and grass fires;
 - c. Creates erosion in the hilly areas of the City and on unimproved property in the City;
 - d. Creates unimproved roads and pathways which constitute a danger and threat of accident to persons in such areas;
 - e. Creates a risk of lives, limbs and properties endangered by operation of motor vehicles on unimproved lands;
 - f. Has an adverse effect upon the public health, safety and convenience of the persons residing in the community, which constitutes a public nuisance to the residents of the City; and
 - g. Promotes blight and depreciates property values.

2. Adding Chapter 7.36 to the Perris Municipal Code will restrict off-highway vehicle use and will permit law enforcement and City prosecutors to efficiently carry out the provisions of the Perris Municipal Code relating to off-highway vehicle use, and thereby alleviate any threat to public peace, health, and safety caused by such use. Said amendments will make a violation of Chapter 7.36 punishable as an infraction.

Section 5. Chapter 7.36 of the Perris Municipal Code is hereby added to state, in its entirety, as follows:

CHAPTER 7.36

OFF-HIGHWAY VEHICLE OPERATION REGULATIONS

Sections:

7.36.010	FINDINGS, PURPOSE AND INTENT
7.36.020	DEFINITIONS
7.36.030	APPLICABILITY OF CHAPTER; EXEMPTIONS
7.36.040	PROHIBITION
7.36.050	PENALTIES

7.36.010 FINDINGS, PURPOSE AND INTENT

- A. The City Council finds that there is an increase in the operation of motorcycles and other motor-driven vehicles for recreational purposes on private property and on public property in the City, and that there is a need for control of the traffic generated from this source.
- B. It is further found and determined that:
1. The California Vehicle Code provides for the regulation of vehicles and operators on the public streets and highways of the state:
 2. The off-highway operation of licensed and unlicensed motorcycles and other motor-driven vehicles on private property and public property in the City:
 - a. Can generate excessive amounts of irritating dust, noxious exhaust fumes and noise;
 - b. Creates a high risk of igniting brush and grass fires;
 - c. Creates erosion in the hilly areas of the City and on unimproved property in the City;
 - d. Creates unimproved roads and pathways which constitute a danger and threat of accident to persons in such areas;
 - e. Has an adverse effect upon the public health, safety and convenience of the persons residing in the community, which

constitutes a public nuisance to the residents of the City; and

f. Promotes blight and depreciates property values.

C. After examination and investigation of the existing situation, it is determined that the operation of motorcycles and other motor-driven vehicles on private and public land, except the public streets and highways, is a public nuisance, that such a public nuisance exists, and that certain controls must be imposed upon the off-highway use of motorcycles and other motor-driven vehicles on private and public property of the City.

7.36.020 DEFINITIONS

A. "Motor vehicle" shall have the same meaning as set forth in Section 415 of the California Vehicle Code.

B. "Off-highway motor vehicle" shall have the same meaning set forth in Section 38006 of the California Vehicle Code.

7.36.030 APPLICABILITY OF CHAPTER; EXEMPTIONS

A. This chapter is designed to regulate the off-highway vehicle traffic on private and public lands, except for public streets and highways, of registered and unregistered motorcycles and other motor-driven vehicles by all persons, whether they possess a valid California motor vehicle operator's license or not.

B. The provisions of this chapter shall not apply to the otherwise proper and legal operation of an off-highway motor vehicle on or within any area, trail or route specifically designed or authorized by local, state or federal government agency for use by off-highway motor vehicles.

C. The provisions of this chapter shall not apply to the operation of an off-highway motor vehicle on private lands for purposes of servicing or repairing such off-highway motor vehicle; provided, however, no such operation shall include racing, competition, exhibitions of speed, demonstrations or stunts or entertainment.

D. Owners of real property, and their legal agents, operating an off-highway motor vehicle to conduct lawful business upon such real property shall be exempt from the provisions of this Chapter.

E. The provisions of this chapter shall not apply to the use of farm vehicles for agricultural purposes, vehicles being used for grading or construction purposes, vehicles being used for governmental purposes, or golf carts being used on golf courses.

F. The provisions of this chapter shall not apply upon any public highway,

street, road or alley within the City.

7.36.040 PROHIBITION

No person shall operate any off-highway motor vehicle on private or public lands within the jurisdictional boundaries of the City.

7.36.050 PENALTIES

- A. Public Nuisance: A violation of Section 7.36.040 by any person responsible for committing, causing, allowing or maintaining such violation shall constitute a public nuisance, and the City is hereby authorized to immediately commence action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof, in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such nuisance.
- B. Criminal Violation: A violation of Section 7.36.040 by any person responsible for committing, causing, allowing or maintaining such violation shall constitute an infraction, which shall be subject to the provisions of Chapter 1.16. Following the first offense, any subsequent violation of Section 7.36.040 by any person or owner responsible for committing, causing, allowing or maintaining such violation shall constitute a misdemeanor, which shall be subject to the provisions of Chapter 1.16.
- C. Administrative citation: In lieu of issuing an infraction citation for a violation of Section 7.36.040, the City may issue an administrative citation, pursuant to Chapter 1.18, to any person responsible for committing, causing, allowing or maintaining a violation of Section 7.36.040. Nothing in this paragraph shall preclude the City from also issuing an infraction citation upon the occurrence of the same offense on a separate day.
- D. Administrative fine: Any person issued an administrative citation for violating Section 7.36.040 shall, for each separate violation, be subject to the penalties set forth in Section 1.18.040.
- E. Nothing in this Section shall preclude the City from also pursuing any other remedies provided by law, including the abatement procedures set forth in Chapter 7.06.

Section 6. Section 7.02.010 of the Perris Municipal Code is hereby amended to state, in its entirety, as follows:

7.02.010 PUBLIC NUISANCES

- A. Public Nuisance. Each and every violation of the provisions this code and

other unlawful conditions are hereby declared to constitute a separate public nuisance which may be abated by the City through the enforcement procedures provided for in this chapter or in any other manner provided by law for the abatement of public nuisances.

B. The City Council has declared various conditions to be public nuisances and has provided procedures for the abatement, removal or elimination of those public nuisances. The following nuisances shall be abated in accordance with the procedures set forth in their respective chapters:

Abandoned Vehicles	Chapter 7.30
Flies	Chapter 7.32
Graffiti	Chapter 7.26
Noise Control	Chapter 7.34
Property Maintenance	Chapter 7.06
Shopping Carts	Chapter 7.28
Unsafe Buildings	Chapter 16.12
Vicious Dogs	Chapter 8.30
Weeds and Rubbish	Chapter 7.08

C. All other nuisances which appear in this code but are not specified above shall be abated in accordance with the procedures set forth in their respective chapters.

Section 7. Authority. This urgency ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code §§ 36934 and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council.

Section 8. 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 9. Certification; Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of Perris, and shall post a certified copy of this Urgency Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

PASSED, APPROVED, and ADOPTED as an **URGENCY ORDINANCE** this 13th day of May 2014, by the following vote:

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Nancy Salazar

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

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Urgency Ordinance Number 1302 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 13th day of May, 2014, by the following called vote:

AYES: LANDERS, ROGERS, YARBROUGH, RODRIGUEZ, BUSCH

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

City Clerk, Nancy Salazar