

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 9.66 REGARDING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

WHEREAS, on November 7, 2006, the voters of the State of California overwhelmingly approved Proposition 83, The Sexual Predator Punishment and Control Act, commonly referred to as Jessica’s Law, so as to better protect Californians, and, in particular, the children of this State from sex offenders; and

WHEREAS, Proposition 83 enacted subsection (b) of Penal Code Section 3003.5 which prohibits any person who is required to register as a sex offender under Penal Code Section 290 (hereinafter referred to as a “sex offender”) from residing within two thousand feet (2,000) of any public or private school, or any park where children regularly gather; and

WHEREAS, on March 2, 2015, the California Supreme Court, *In re Taylor*, 60 Cal. 4th 1019 (2015), held that the residency restrictions of subsection (b) of Penal Code Section 3003.5 which are applied across the board to all registered sex offenders on parole in San Diego County were unconstitutional; and

WHEREAS, the California Attorney General advised the California Department of Corrections and Rehabilitation (“CDCR”) that the blanket residency restrictions of subsection (b) of Penal Code Section 3003.5 would be found unconstitutional in every county, and the CDCR is no longer enforcing residency restrictions prohibiting registered sex offenders from living within two thousand feet (2,000) of a school or park; and

WHEREAS, it is likely subsection (b) of Penal Code Section 3003.5 would

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1 be deemed unconstitutional if applied across the board in the City of Long Beach; and

2 WHEREAS, the unconstitutionality of blanket sex offender residency
3 restrictions based on a measurement of distance does not preclude the City of Long
4 Beach from enforcing other existing Penal Code provisions that regulate registered sex
5 offenders; and

6 WHEREAS, Proposition 83, as codified in subsection (c) of Penal Code
7 Section 3003.5, authorizes municipal jurisdictions to enact local ordinances that further
8 restrict the residency of any registered sex offender, whether or not on parole or
9 probation; and

10 WHEREAS, subsection (a) of Penal Code section 3003.5, enacted in
11 1998 prior to Proposition 83, prohibits registered sex offenders who are on parole from
12 residing in a "single-family dwelling" with another registered sex offender during the
13 parole period, unless those persons are legally related by blood, marriage or adoption;
14 and

15 WHEREAS, the City of Long Beach is becoming an increasingly attractive
16 place of residence for families with children; and

17 WHEREAS, there are approximately over eight hundred (800) registered
18 sex offenders in the City of Long Beach; and

19 WHEREAS, the City is concerned with recent occurrences, within the City
20 and elsewhere in California, where multiple registered sex offenders have been residing
21 together in clusters; and

22 WHEREAS, because Long Beach Municipal Code Chapter 9.66 is intended
23 to eliminate any potential conflict of land uses in residential neighborhoods and to reduce
24 the potential dangers affecting families with children, Chapter 9.66 shall also regulate the
25 number of registered sex offenders permitted to reside in multiple family dwellings units;
26 and

27 WHEREAS, in order to foster compliance with the intent of this ordinance,
28 Chapter 9.66 shall also establish regulations for property owners who knowingly rent or

1 lease residential dwellings and units to registered sex offenders in violation of Chapter
2 9.66; and

3 WHEREAS, sex offenders are still required to register their residences with
4 local police who, in turn, submit this information to the Department of Justice for inclusion
5 in the Department of Justice's "Megan's Law" website and, therefore the City is still
6 provided the protection of knowing where registered sex offenders reside and law
7 enforcement can thereby monitor their activities in the community; and

8 WHEREAS, this ordinance is required for the immediate preservation of the
9 public peace, health, and safety, and it shall be the intent of the City Council to construe
10 this ordinance as having a prospective application only;

11 NOW THEREFORE, the City Council of the City of Long Beach ordains as
12 follows:

13 Section 1. Chapter 9.66 of the Long Beach Municipal Code is amended
14 and restated in its entirety as follows:

15
16 CHAPTER 9.66

17 SEX OFFENDER RESIDENCY RESTRICTIONS

18
19 9.66.010 Definitions.

20 For purposes of this Chapter only, and unless the context clearly
21 requires a different meaning, the words, terms and phrases set forth in this
22 Section are defined as follows:

23 A. "Duplex" shall mean a residential land use for a building
24 containing two (2) dwelling units.

25 B. "Hotel/Motel" shall mean a commercial land use for the rental
26 of six (6) or more guest rooms or suites for primarily temporary residency
27 for a period of not more than thirty (30) consecutive days.

28 C. "Inn" shall mean a commercial land use for the rental of five

1 (5) or fewer guest rooms or suites primarily for temporary residency for a
2 period of not more than thirty (30) consecutive days.

3 D. "Knowingly" shall mean with knowledge of the existence of the
4 facts in question. Knowledge of the unlawfulness of any act or omission is
5 not required.

6 E. "Multi-family Dwelling" shall mean a building designed for
7 permanent residency for three (3) or more families living independently of
8 each other. This does not include hotels, motels, or inns.

9 F. "Owner's Authorized Agent" shall mean any natural person,
10 firm, association, joint venture, joint stock company, partnership,
11 organization, club, company, corporation, business trust or the manager,
12 lessee, agent, servant, officer or employee authorized to act for the owner
13 of real property.

14 G. "Permanent Resident" shall mean any person who, as of a
15 given date, obtained a legal right to occupy or reside in a Duplex, Multi-
16 family Dwelling, Single Family Dwelling, Hotel, Motel or Inn for a period of
17 more than thirty (30) consecutive days.

18 H. "Property Owner" shall mean the owner of record of any
19 parcel of real property as designated on the county assessor's tax roll, or a
20 holder of a subsequently recorded deed to the property and shall include
21 any part owner, joint owner, tenant, tenant in common, or joint tenant, of the
22 whole or a part of such real property.

23 I. "Responsible Party" shall mean the Property Owner and/or
24 the Owner's Authorized Agent.

25 J. "Sex Offender" means any person convicted of a crime on or
26 after the effective date of this ordinance, for which registration is required
27 pursuant to Section 290 of the California Penal Code.

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K. "Single Family Dwelling" means one (1) permanent residential dwelling located on a single lot. For purposes of this Chapter, Single Family Dwelling shall not include any State licensed residential facility which serves six (6) or fewer persons.

L. "Temporary Resident" means any person who, as of a given date, obtained a legal right to occupy or reside in a Duplex, Multi-family Dwelling, Single Family Dwelling, hotel, motel or inn for a period of thirty (30) consecutive days or less.

9.66.020 Sex offender prohibition – Single Family Dwellings.

A sex offender shall be prohibited from becoming a Permanent or Temporary Resident in a Single Family Dwelling if said dwelling is already occupied by a sex offender, unless the other person is legally related by blood, marriage or adoption.

9.66.030 Sex offender prohibitions – Duplex & Multi-family Dwellings.

A sex offender shall be prohibited from becoming a Permanent or Temporary Resident in a Duplex and/or Multi-family Dwelling unit if said dwelling unit is already occupied by a sex offender, unless the other person is legally related by blood, marriage or adoption.

9.66.040 Sex offender prohibition - Hotel/Motel/Inn Rooms.

A sex offender shall be prohibited from becoming a Permanent or Temporary Resident in a Hotel, Motel, or Inn guest room if said guest room is already occupied by a sex offender, unless the other person is legally related by blood, marriage or adoption.

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1 9.66.050 Responsible party prohibition - Single Family Dwellings.

2 A Responsible Party shall be prohibited from knowingly renting or
3 leasing a Single Family Dwelling to more than one sex offender during any
4 given period of tenancy, unless those persons are legally related by blood,
5 marriage or adoption.

6
7 9.66.060 Responsible party prohibitions – Duplex & Multi-family
8 Dwellings.

9 A Responsible Party shall be prohibited from knowingly renting or
10 leasing an individual unit within a Duplex and/or Multi-family Dwelling to
11 more than one sex offender during any given period of tenancy, unless
12 those persons are legally related by blood, marriage or adoption.

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14 9.66.070 Responsible party prohibitions - hotel/motel/inn.

15 A Responsible Party shall be prohibited from knowingly renting or
16 leasing an individual guest room in a Hotel, Motel, or Inn to more than one
17 (1) sex offender, unless those persons are legally related by blood,
18 marriage or adoption.

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20 9.66.080 Criminal penalties.

21 Any person who violates any provision of this Chapter is guilty of a
22 misdemeanor subject to the penalties set forth in Section 1.32.010 of this
23 Code.

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25 9.66.090 Criminal penalties do not satisfy administrative or civil
26 actions.

27 Neither the arrest, prosecution, conviction, imprisonment, or payment
28 of a fine for a criminal violation of Chapter 9.66 shall satisfy or diminish the

1 authority of the City to commence civil or criminal proceedings under
2 applicable Civil, Penal or Municipal Code provisions as an alternative or in
3 addition to the proceedings set forth in this Chapter.

4 9.66.110 Civil actions.

5 A. Civil actions include, but are not limited to, injunctive relief and
6 civil and/or administrative actions or proceedings as defined in State law
7 and local ordinances.

8 B. Any person required to comply with the provisions of this
9 Chapter shall be liable in a civil action filed by the City in any court of
10 competent jurisdiction in order to enforce such provision and to pay
11 reasonable abatement costs incurred by the City and costs of the suit as a
12 court may deem appropriate, including any and all attorney fees incurred by
13 the City in the prosecution of said enforcement action.

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15 Section 2. The City of Long Beach, Office of the Long Beach City
16 Attorney is directed, on the effective date of this ordinance, to send a copy of this
17 ordinance to the California Department of Corrections and Rehabilitation, Division of
18 Adult Operations.

19
20 Section 3. Nothing in this Chapter is intended to conflict with provisions
21 of California's Megan's Law as codified in Penal Code Sections 290.4 and 290.46.

22
23 Section 4. If any section, subsection, sentence, clause, phrase, or
24 portion of this ordinance is for any reason held to be invalid or unconstitutional by the
25 decision of any court of competent jurisdiction, such decision shall not affect the validity
26 of the remaining portions of this ordinance. The City Council hereby declares that it
27 would have adopted this ordinance and each section, subsection, sentence, clause,
28 phrase, or portion thereof, irrespective of the fact that any one or more sections,

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1 subsections, clauses, phrases or portions be declared invalid or unconstitutional.

2

3 Section 5 The City Clerk shall certify to the passage of this ordinance by
4 the City Council of the City of Long Beach and cause it to be posted in three conspicuous
5 places in the City of Long Beach, and it shall take effect on the thirty-first (31) day after it
6 is approved by the Mayor.

7 I hereby certify that the foregoing amended ordinance was adopted by the
8 City Council of the City of Long Beach at its meeting of _____, 2016, by
9 the following votes:

10

11 Ayes: Councilmembers: _____

12 _____

13 _____

14 _____

15 Noes: Councilmembers: _____

16 _____

17 Absent: Councilmembers: _____

18 _____

19 _____

20 _____
City Clerk

21 _____

22 Approved: _____
(Date) Mayor

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