

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

ORDINANCE NO. ORD-08-0036

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  
2,000 feet of any public or private school, or any park where children regularly gather; and

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

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

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

////

1           WHEREAS, there are approximately 800 registered sex offenders in the  
2 City of Long Beach, and approximately 300 of these registered sex offenders are on  
3 parole; and

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

7           WHEREAS, because Long Beach Municipal Code Chapter 9.66 is  
8 intended to eliminate any potential conflict of land uses in residential neighborhoods and  
9 to reduce the potential dangers associated with multiple registered sex offenders living  
10 near families with children and places where children frequently gather, Chapter 9.66  
11 shall also regulate the number of registered sex offenders permitted to reside in multiple  
12 family dwellings; and

13           WHEREAS, in addition to public and private schools and parks, the City  
14 further finds that California State licensed child day care facilities are necessarily included  
15 as places where children frequently gather; and

16           WHEREAS, in order to foster compliance with the intent of this ordinance,  
17 Chapter 9.66 shall also establish regulations for property owners who knowingly rent or  
18 lease residential dwellings to registered sex offenders in violation of Chapter 9.66; and

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

22           NOW THEREFORE, the City Council of the City of Long Beach ordains  
23 as follows:

24           Section 1. Chapter 9.66 of the Long Beach Municipal Code entitled "Sex  
25 Offender Residency Restrictions" is amended and restated in its entirety as follows:

26       ////

27       ////

28       ////

1 CHAPTER 9.66  
2 SEX OFFENDER RESIDENCY  
3 RESTRICTIONS

4 9.66.010 Definitions.

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

8 A. "Child" or "Children" shall mean any person(s) under the age of  
9 eighteen (18) years of age.

10 B. "Child Day Care Facility" shall mean any State of California,  
11 Department of Social Services ("CDSS") licensed facility, as that term is defined  
12 under Health and Safety Code Section 1596.750, that provides non-medical care  
13 to children under 18 years of age in need of personal services, supervision, or  
14 assistance essential for sustaining the activities of daily living or for the protection  
15 of the individual on less than a twenty four (24) hour basis, including but not  
16 limited to day care center, employer-sponsored child care center, family day care  
17 home, infant center, preschool, extended-day care facility, or school-age child  
18 care center.

19 C. "Duplex" shall mean a residential land use for a building containing  
20 two dwelling units.

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

24 E. "Inn" shall mean a commercial land use for the rental of five (5) or  
25 fewer guest rooms or suites primarily for temporary residency for a period of not  
26 more than thirty (30) consecutive days.

27 ////

28 ////

1 F. "Knowingly" shall mean with knowledge of the existence of the facts  
2 in question. Knowledge of the unlawfulness of any act or omission is not  
3 required.

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

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

11 I. "Park" shall include any areas publicly owned, leased, controlled,  
12 maintained or managed by the city or county which are open to public use for  
13 recreational, cultural and/or community service activities, and include, but are not  
14 limited to, beaches, playgrounds, playfields, athletic courts, and dog park  
15 recreation areas, as well as those areas specifically dedicated or designated as  
16 "Parks" in Chapter 21.35 of this Code.

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

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

26 L. "Residential Exclusion Zone" shall include those areas located  
27 within two thousand (2,000) feet of the nearest property line of the subject  
28 property to the nearest property line of a Child Day Care Facility, public or private

1 school (grades K through 12), or Park in which a sex offender is prohibited from  
2 temporarily or permanently residing.

3 M. "Responsible Party" shall mean the Property Owner and/or the  
4 Owner's Authorized Agent.

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

8 O. "Single Family Dwelling" means one permanent residential dwelling  
9 located on a single lot. For purposes of this Chapter, Single Family Dwelling shall  
10 not include any State licensed residential facility which serves six or fewer  
11 persons.

12 P. "Temporary Resident" means any person who, as of a given date,  
13 obtained a legal right to occupy or reside in a Duplex, Multi-family Dwelling, Single  
14 Family Dwelling, Hotel, Motel or Inn for a period of thirty (30) consecutive days or  
15 less.

16  
17 9.66.020 Sex Offender Prohibition Residential Exclusion Zone.

18 A sex offender shall be prohibited from becoming a Permanent or  
19 Temporary Resident in any Residential Exclusion Zone.

20  
21 9.66.030 Sex Offender Prohibition – Single Family Dwellings.

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

26 ////

27 ////

28 ////

1           9.66.040       Sex Offender Prohibitions – Duplex & Multi-family Dwellings.

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

6  
7           9.66.050       Sex Offender Prohibition - Hotel/Motel/Inn Rooms.

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

12  
13          9.66.060       Responsible Party Prohibition - Single Family Dwellings.

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

18  
19          9.66.070       Responsible Party Prohibitions – Duplex & Multi-family Dwellings.

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

24  
25          9.66.080       Responsible Party Prohibitions - Hotel/Motel/Inn.

26                  A Responsible Party shall be prohibited from knowingly renting or leasing a  
27          guest room in a Hotel, Motel, or Inn to more than one sex offender, unless those  
28          persons are legally related by blood, marriage or adoption.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

9.66.090 Criminal Penalties.

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

9.66.110 Criminal Penalties Do Not Satisfy Administrative or Civil Actions.

Neither the arrest, prosecution, conviction, imprisonment, or payment of a fine for a criminal violation of Chapter 9.66 shall satisfy or diminish the authority of the City to commence civil or criminal proceedings under applicable Civil, Penal or Municipal Code provisions as an alternative or in addition to the proceedings set forth in this Chapter.

9.66.120 Civil Actions.

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

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

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

////  
////

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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

3  
4 Section 4. If any section, subsection, sentence, clause, phrase, or  
5 portion of this ordinance is for any reason held to be invalid or unconstitutional by the  
6 decision of any court of competent jurisdiction, such decision shall not affect the validity  
7 of the remaining portions of this ordinance. The City Council hereby declares that it  
8 would have adopted this ordinance and each section, subsection, sentence, clause,  
9 phrase, or portion thereof, irrespective of the fact that any one or more sections,  
10 subsections, clauses, phrases or portions be declared invalid or unconstitutional.

11  
12 Section 5 The City Clerk shall certify to the passage of this ordinance by  
13 the City Council of the City of Long Beach and cause it to be posted in three conspicuous  
14 places in the City of Long Beach, and it shall take effect on the thirty-first (31) day after it  
15 is approved by the Mayor.

16  
17 I hereby certify that the foregoing amended ordinance was adopted by the  
18 City Council of the City of Long Beach at its meeting of December 2, 2008, by the  
19 following votes:

20  
21 Ayes: Councilmembers: O'Donnell, Schipske, Andrews,  
22 Reyes Uranga, Gabelich Lerch.


23  
24  
25 Noes: Councilmembers: None.

26  
27 Absent: Councilmembers: S. Lowenthal, DeLong.

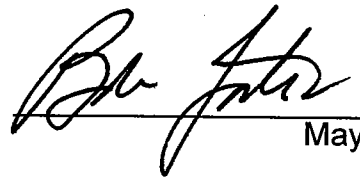
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

  
\_\_\_\_\_  
City Clerk

Approved: Dec 5, 2008  
(Date)

  
\_\_\_\_\_  
Mayor

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664