



Legislation Text

File #: 16-0538, **Version:** 2

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending and restating in its entirety Chapter 9.66 regarding residency restrictions for sex offenders, read and adopted as read. (Citywide)

Pursuant to your request on April 5, 2016, this Ordinance amending and restating in its entirety Chapter 9.66 of the Long Beach Municipal Code ("LBMC"), "Sex Offender Residency Restrictions," has been prepared and is submitted for your consideration.

California Sex Offender Regulations:

In 1996, the federal government adopted Megan's Law, creating a nationwide sex offender registry. The California legislature soon followed and adopted various regulations related to registrants. One such regulation provides that a parolee sex offender may not, during the duration of parole, reside in a single family dwelling with any other registrant not legally related by blood, marriage, or adoption.

"Jessica's Law," enacted by California voters in 2006, additionally prohibits registered sex offenders from residing within 2,000 feet of a public or private school or a park where children regularly gather.

Jessica's Law also authorizes cities to adopt ordinances further restricting the residency of registered sex offenders. Many California municipalities, including the City of Long Beach, enacted local ordinances further restricting sex offender registrants' residency and other activities of registrants within their jurisdictions.

The constitutionality of state and local laws regulating sex offender residency has been challenged in both state and federal courts. As a result of these lawsuits, several municipalities have amended or repealed their sex offender residency regulations. The City of Long Beach is currently involved in a lawsuit which challenges the constitutionality of LBMC Chapter 9.66 in its entirety.

California Supreme Court Decision Regarding Blanket Application of Sex Offender 2,000 ft. Residency Restriction:

In 2015, the California Supreme Court held that the aforementioned 2,000-foot residency restriction, as applied across the board to all registered sex offenders on parole in San Diego County, was unconstitutional. The Court determined that such blanket enforcement not only barred registrants from renting approximately 97% of multifamily housing units (often the only

housing parolees could afford) in the County, but also caused parolees to face homelessness, inability to find or maintain employment, and hindered access to various assistance programs.

The Court determined that the restriction bore no rational relationship to advancing the State's legitimate goal of protecting children. The Court declared that residency restrictions in the County should instead be determined on a case-by-case basis based on the particularized circumstances of each parolee.

The California Attorney General has since advised the California Department of Corrections and Rehabilitation ("CDCR") that the above described residency restrictions would be found unconstitutional in every county. The CDCR is no longer enforcing blanket residency restrictions.

The CDCR has stated that residency restrictions, except those related to certain sex crimes involving minors under the age of 14, will be determined on a case-by-case basis, taking into consideration the parolee's criminal history and clearly articulated justifications for specific restrictions.

The City Attorney has analyzed the impact of the recent Supreme Court case and the Attorney General's opinion on the LBMC and is of the opinion that portions of LBMC Chapter 9.66 would fail to pass constitutional muster.

Suggested Revisions of Long Beach Municipal Code Chapter 9.66:

LBMC Chapter 9.66 prohibits registered sex offenders from permanently or temporarily residing in Residential Exclusion Zones ("Zones"), defined as all areas located within 2,000 feet of Child Day Care Facilities ("CDCFs"), public or private schools (grades K through 12), and parks.

The City of Long Beach has over 462,000 residents, an area of approximately fifty (50) square miles, and nearly six miles of beaches. Long Beach has numerous CDCFs and public and private schools, approximately 190 parks and community centers, and over 3,100 acres of the City developed for recreation purposes. These statistics significantly hinder a registered sex offender's ability to acquire residence outside the specified Zones. Furthermore, the CDCR has been clear that it will not enforce the blanket residency restrictions, based on a measurement of distance, within Long Beach or elsewhere. As such, it is recommended the City repeal the sections of LBMC Chapter 9.66 related to the Zones in their entirety.

The remaining provisions regulating clustering of sex offenders per dwelling unit or hotel/motel/inn guest room do not significantly affect a sex offender from acquiring permanent and/or temporary residence within the City.

However, the "responsible party prohibitions" should be amended to more clearly articulate that the prohibitions only apply per unit/room, and not per structure, as was intended when the restated Chapter 9.66 passed on December 2, 2008.

These proposed amendments would bring the City's regulations of registered sex offenders into compliance with current state law.

Approve recommendation.

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

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