

ORDINANCE NO. ORD-08-0004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING TITLE 9, CHAPTER 9.66
TO INCLUDE RESIDENCY AND LOITERING
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 registered sex offender, on parole to the California
Department of Corrections and Rehabilitation - Division of Adult Parole Operations, 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, local ordinances authorized by subsection (c) of Penal Code
section 3003.5 are permitted to regulate the number of registered sex offenders that
reside in a residential facility, including those facilities which serve six or fewer persons
commonly referred to as sober living facilities, and are considered a single family
dwelling pursuant to Health and Safety Code Section 1566.3; 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 in clusters in violation of subsection (b) of Penal Code Section 3003.5; 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, coupled with the
11 fact that subsection (a) of Penal Code Section 3003.5 expressly refers to 'single family
12 dwellings' as opposed to multiple family dwellings, Chapter 9.66 shall also regulate the
13 number of registered sex offenders permitted to reside in multiple family dwellings; and

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

17 WHEREAS, there is currently no State or local ordinance that prohibits
18 registered sex offenders from loitering near places where children congregate, therefore
19 Chapter 9.66 shall also prohibit registered sex offenders from loitering within a 300 foot
20 radius from locations where children gather; and

21 WHEREAS, in order to foster compliance with the intent of this ordinance,
22 Chapter 9.66 shall also establish regulations of registered sex offenders and the
23 property owners who rent to them; and

24 WHEREAS, this ordinance is required for the immediate preservation of
25 the public peace, health, and safety, and it shall be the intent of the City Council to
26 construe this ordinance as having a retroactive application;

27 NOW THEREFORE, the City Council of the City of Long Beach ordains
28 as follows:

Section 1. Chapter 9.66 of the Long Beach Municipal Code entitled "Sex Offender Residency and Loitering Restrictions" is added to read as follows:

CHAPTER 9.66

SEX OFFENDER RESIDENCY AND
LOITERING RESTRICTIONS

9.66.010 Definitions.

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

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

B. "Child Care Center" shall mean any State of California, Department of Social Services licensed facility that provides non-medical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty four (24) hour basis, including but not limited to a family day care home, infant center, preschool, extended-day care facility, or school-age child care center.

C. "Child Safety Zone" shall include those areas located within three hundred (300) feet from the nearest property line of a child care center, public or private school grades K through 12, park, public library, swimming or wading pool, commercial establishment that provides any area in or adjacent to such establishment as a children's playground, or any location that facilitates on the property classes or group activities for children, or school bus stops.

D. "Duplex" shall mean a residential land use for a building containing two dwelling units.

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

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

4 G. "Loiter" shall mean to delay, linger, or idle about a Child Safety
5 Zone without lawful business or purpose for being present.

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

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

14 J. "Park" shall include any areas publicly owned, leased, controlled,
15 maintained or managed by a city or county which are open to public use for
16 recreational, cultural and community service activities, and include, but are not
17 limited to, beaches, playgrounds, playfields, athletic courts, and dog park
18 recreation areas.

19 K. "Permanent Resident" shall mean any person who, as of a given
20 date, obtained the right to occupy a dwelling including but not limited to a Duplex,
21 Multi-family Dwelling, Single Family Dwelling, Hotel, Motel or Inn for more than
22 thirty (30) consecutive days.

23 L. "Property Owner" as applied to buildings and land shall mean the
24 owner of record of any parcel of real property as designated on the county
25 assessor's tax roll, or a holder of a subsequently recorded deed to the property,
26 and shall include any part owner, joint owner, tenant, tenant in common, or joint
27 tenant, of the whole or a part of such building or land.
28

1 M. "Residential Exclusion Zone" shall include those areas located
2 within two thousand (2,000) feet of the closest property line of the subject
3 property to the closest property line of a child care center, public or private school
4 grades K through 12, or park in which a sex offender is prohibited from
5 temporarily or permanently residing.

6 N. "Responsible Party" shall mean the Property Owner and/or the
7 Owner's Authorized Agent.

8 O. "Sex Offender" means any person for whom registration is required
9 pursuant to Section 290 of the California Penal Code, regardless of whether that
10 person is on parole or probation.

11 P. "Single Family Dwelling" means one (1) permanent residential
12 dwelling located on a single lot with yard areas that separate that dwelling from
13 other dwellings.

14 Q. "Temporary Resident" means any person who, for a period of thirty
15 (30) days or less, obtained the right to occupy a dwelling including but not limited
16 to a Hotel, Motel or Inn.

17
18 9.66.020 Violation of Child Safety Zone.

19 No Sex Offender shall Loiter in a Child Safety Zone.
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21 9.66.030 Violation of Residential Exclusion Zone.

22 No Sex Offender shall be a Permanent or Temporary Resident in a
23 Residential Exclusion Zone.
24

25 9.66.040 Sex Offender Violation-Single Family Dwellings.

26 No Sex Offender shall be a Permanent or Temporary Resident in a Single
27 Family Dwelling already occupied by a Sex Offender, unless those persons are
28 legally related by blood, marriage or adoption.

1 9.66.050 Sex Offender Violation-Multi-Family Dwellings.

2 No Sex Offender shall be a Permanent or Temporary Resident in a Multi-
3 family Dwelling already occupied by a Sex Offender, unless those persons are
4 legally related by blood, marriage or adoption.

5
6 9.66.060 Sex Offender Violation-Duplex Dwellings.

7 No Sex Offender shall be a Permanent or Temporary Resident in a Duplex
8 Dwelling already occupied by a Sex Offender, unless those persons are legally
9 related by blood, marriage or adoption.

10
11 9.66.070 Sex Offender Violation-Hotel/Motel/Inn Rooms.

12 No Sex Offender shall be a Permanent or Temporary Resident in a guest
13 room of a Hotel, Motel, or Inn already occupied by a Sex Offender, unless those
14 persons are legally related by blood, marriage or adoption.

15
16 9.66.080 Sex Offender Violation-Hotel/Motel/Inn Permanent Resident

17 No sex offender shall be a Permanent Resident in any guest room of a
18 Hotel, Motel, or Inn wherein a separate and distinct guest room is already
19 occupied by a Sex Offender as a Permanent Resident.

20
21 9.66.090 Responsible Party Violation-Single Family Dwellings.

22 No Responsible Party shall knowingly rent a Single Family Dwelling to
23 more than one (1) Sex Offender during any given period of tenancy, unless those
24 persons are legally related by blood, marriage or adoption.

25
26 9.66.100 Responsible Party Violation-Single Family Dwellings Temporary Use.

27 No Responsible Party shall knowingly rent a Single Family Dwelling to a
28 Sex Offender as a Temporary Resident.

1 9.66.110 Responsible Party Violation-Multi-Family Dwellings.

2 No Responsible Party shall knowingly rent a unit within a Multi-family
3 Dwelling to more than one (1) Sex Offender during any given period of tenancy,
4 unless those persons are legally related by blood, marriage or adoption.
5

6 9.66.120 Responsible Party Violation-Multi-Family Dwellings Multiple Units.

7 No Responsible Party shall knowingly rent more than one unit within a
8 Multi-family Dwelling to a Sex Offender during any given period of tenancy.
9

10 9.66.130 Responsible Party Violation-Multi-Family Dwellings Temporary Use.

11 No Responsible Party shall knowingly rent any Multi-family Dwelling to a
12 Sex Offender as a Temporary Resident.
13

14 9.66.140 Responsible Party Violation-Duplex Dwellings.

15 No Responsible Party shall knowingly rent a unit within a Duplex Dwelling
16 to more than one (1) Sex Offender during any given period of tenancy, unless
17 those persons are legally related by blood, marriage or adoption.
18

19 9.66.150 Responsible Party Violation-Duplex Dwellings Multiple Units.

20 No Responsible Party shall knowingly rent more than one (1) unit within a
21 Duplex Dwelling to a Sex Offender during any given period of tenancy.
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23 9.66.160 Responsible Party Violation-Duplex Dwellings Temporary Use.

24 No Responsible Party shall knowingly rent any Duplex Dwelling to a Sex
25 Offender as a Temporary Resident.
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1 9.66.170 Responsible Party Violation-Hotel/Motel/Inn.

2 No Responsible Party shall knowingly rent a guest room in a Hotel, Motel,
3 or Inn to more than one (1) Sex Offender, unless those persons are legally related
4 by blood, marriage or adoption.

5
6 9.66.180 Responsible Party Violation-Hotel/Motel/Inn Permanent Resident.

7 No Responsible Party shall knowingly rent more than one (1) guest room in
8 a Hotel, Motel, or Inn to a Sex Offender as a Permanent Resident.

9
10 9.66.190 Penalties.

11 Every person who violates any provision of this Chapter shall be guilty of a
12 misdemeanor and shall be subject to the penalties as set forth in Section
13 1.32.010.

14
15 9.66.200 Criminal Penalties Do Not Satisfy Administrative or Civil Actions.

16 Neither the arrest, prosecution, conviction, imprisonment, or payment of
17 any fine for the violation of Chapter 9.66 shall satisfy or diminish the authority of
18 the City to institute administrative or civil actions seeking enforcement of any or
19 all of the provisions of this Chapter.

20
21 9.66.210 Civil Actions.

22 Any person required to comply with any or all of the provisions of Chapter
23 9.66 shall be liable in an action filed by the City in any court of competent
24 jurisdiction in order to enforce such provision and to pay such reasonable costs of
25 the suit as the court may deem appropriate, including any and all attorney fees
26 incurred by the City in the prosecution of said enforcement action.

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1 Section 2: The Long Beach Police Department is directed to send copies
2 of this ordinance to any Sex Offender who, on the effective date of this ordinance, is
3 registered as living within the City of Long Beach.

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5 Section 3: The City of Long Beach, Office of the Long Beach City
6 Attorney is directed to send copies of this ordinance to those Property Owners identified
7 by the Long Beach Police Department who, on the effective date of this ordinance, own
8 Single Family Dwellings, Multi-family Apartment Houses, Duplex Dwellings, and/or
9 commercial Hotels, Motels, and/or Inns occupied by more than one Sex Offender.

10
11 Section 4: The City of Long Beach, Office of the Long Beach City
12 Attorney is directed, on the effective date of this ordinance, to send a copy of this
13 ordinance to the California Department of Corrections and Rehabilitation, Division of
14 Adult Operations.

15
16 Section 5: Notwithstanding any provision of this ordinance to the
17 contrary, any Responsible Party in violation of the provisions of Chapter 9.66 prior to the
18 effective date of this ordinance, shall be granted a six (6) month compliance period,
19 commencing on the effective date of this ordinance, to bring their property into conformity
20 with the provisions of Chapter 9.66.

21
22 Section 6. If any section, subsection, sentence, clause, phrase, or
23 portion of this ordinance is for any reason held to be invalid or unconstitutional by the
24 decision of any court of competent jurisdiction, such decision shall not affect the validity
25 of the remaining portions of this ordinance. The City Council hereby declares that it
26 would have adopted this ordinance and each section, subsection, sentence, clause,
27 phrase, or portion thereof, irrespective of the fact that any one or more sections,
28 subsections, clauses, phrases or portions be declared invalid or unconstitutional.

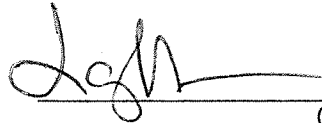
Section 7. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of March 18, 2008, by the following votes:

Ayes: Councilmembers: B. Lowenthal, S. Lowenthal, DeLong,
O'Donnell, Schipske, Andrews,
Reyes Uranga, Gabelich, Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: None.



City Clerk

Approved: 3/20/08

(Date)



Mayor