

CITY OF LOMPOC

ORDINANCE NO. 1583(12)

**An Ordinance of the City Council of the City of Lompoc Adding
Chapter 9.44 to the Lompoc Municipal Code
Relating to Registered Sex Offender Residency Prohibitions**

WHEREAS, Jessica's Law was passed by the voters on November 7, 2006, and established Penal Code Section 3003.5. Jessica's Law prohibits sex offenders for establishing residency within 2,000 feet of a school or park when they are released from incarceration. Some offenders are mandated to wear a global positioning system device for the rest of their lives. Jessica's Law also modified the criteria for sexually violent predators, increasing the number of sex offenders eligible for civil commitment to the California Department of Mental Health for treatment, rather than being released on parole; and

WHEREAS, the City of Lompoc's most valuable asset is its youth. Children and young adults are the future of our community and deserve to be afforded the utmost protection during their formative years. The State of California has made great strides in recent years in providing public access to sex offender registration information and protecting our youth, through the establishment of Jessica's Law. However, loopholes in the law exist for those who would seek to exploit them; and

WHEREAS, since Jessica's Law was implemented, differing court interpretations have created a need for local jurisdictions to develop ordinances specifically designed for application within a city or county. Penal Code Section 3003.5(c) states: "Nothing in this section shall prohibit municipal jurisdictions from enacting local ordinances that further restrict the residency of any person for whom registration is required pursuant to Section 290."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.44 of the Lompoc Municipal Code is hereby amended to read as follows:

Chapter 9.44 REGISTERED SEX OFFENDER RESIDENCY PROHIBITIONS

9.44.010 Definitions.

For purposes of this chapter, the following definitions shall apply:

Child or Children

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

Child Care Center

“Child care center” shall mean any licensed facility of the State of California, Department of Social Services, 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 children 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.

Child Safety Zone

“Child safety zone” shall include any area located within three hundred (300) feet from the nearest property line of a child care center, public or private school (grades K through twelve (12)), park, public library, commercial establishment that provides a child’s playground either in or adjacent to the establishment, a location that holds classes or group activities for children, and/or any school bus stop.

Loitering

“Loitering” shall mean to delay, linger, or idle about a child safety zone with the intent to commit a sex offense for which registration is required under California Penal Code Section 290.

Motel

“Motel” shall mean a commercial establishment that rents guest rooms or suites to the public on a nightly, weekly, or monthly basis and shall include a hotel or an inn that operates in such capacity.

Multi-family Dwelling

“Multi-family dwelling” shall mean a residential structure or complex designed for the permanent residency of two (2) or more individuals, groups of individuals, or families living independently. This definition shall include a duplex, an apartment house, a common interest complex and a mobile home park, but shall not include a motel.

Owner’s Authorized Agent

“Owner’s authorized agent” shall mean any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, limited liability company, corporation, business trust, manager, lessee, servant, officer, or employee, authorized to act for the property owner.

Park

“Park” shall include any areas owned, leased, controlled, maintained, or managed by a public entity which are open to the public where children regularly gather and which

provide recreational, cultural, and/or community service activities including, but not limited to, playgrounds, playfields, and athletic courts.

Permanent Resident

“Permanent resident” shall mean any person who, on a given date, has obtained a legal right to occupy or reside in, or has already, as of that date, occupied or resided in, a single-family or multi-family dwelling or a motel for more than thirty (30) consecutive days.

Property Owner

“Property owner” shall include the owner of record of real property, as recorded in the office of the County Registrar-Recorder/County Clerk, as well as any partial owner, joint owner, tenant, tenant-in-common, or joint tenant, of such real property.

Registered Sex Offender

“Registered sex offender” shall mean any person who is required to register under California Penal Code Section 290, regardless of whether or not that person is on parole or probation.

Residential Exclusion Zone

“Residential exclusion zone” shall mean any area located within two thousand (2,000) feet from the nearest property line of the subject property to the nearest property line of a child care center, public or private school (grades K through twelve (12)), park, or public library.

Residing

"Residing" shall mean using temporary quarters for eating, sleeping or personal convenience purposes.

Responsible Party

“Responsible party” shall mean a property owner and/or a property owner’s authorized agent.

Single-family Dwelling

“Single-family dwelling” shall mean 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.

Temporary Quarters

"Temporary Quarters" shall mean a motor vehicle, including a recreational vehicle, tent or other place of refuge used for residing.

Temporary/Transient Resident

"Temporary/Transient resident" shall mean any person who, on a given date, (i) has obtained a legal right to occupy or reside in, or has already, as of that date, occupied or resided in, a single-family or multi-family dwelling or a motel for a period of thirty (30) consecutive days or less, and (ii) is residing in temporary quarters.

9.44.020 Registered Sex Offender Prohibition—Child Safety Zone.

A registered sex offender shall be prohibited from loitering or residing in a child safety zone.

9.44.030 Registered Sex Offender Prohibition—Residential Exclusion Zone.

A registered sex offender shall be prohibited from becoming a permanent or temporary/transient resident in any residential exclusion zone.

9.44.044 Registered Sex Offender Prohibition—Single-family and Multi-family Dwellings.

A. Same Dwelling. A registered sex offender shall be prohibited from renting or otherwise occupying a single-family dwelling or a unit in a multi-family dwelling with another registered sex offender, regardless of whether either registered sex offender is a permanent or temporary/transient resident, unless those persons are legally related by blood, marriage, or adoption.

B. Multiple Dwellings. A registered sex offender shall be prohibited from renting or otherwise occupying a unit in a multi-family dwelling as a permanent resident if there is another unit in that multi-family dwelling that is already rented or otherwise occupied by a registered sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.

C. Temporary Residency. A registered sex offender shall be prohibited from renting or otherwise occupying any single-family dwelling, any unit in a multi-family dwelling or any temporary quarters, as a temporary/transient resident.

9.44.050 Registered Sex Offender Prohibition—Motels and Temporary Quarters.

A. Same Motel Room. A registered sex offender shall be prohibited from renting or otherwise occupying the same guest room in a motel with another registered sex offender, regardless of the permanent or temporary/transient residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.

B. Separate Motel Rooms. A registered sex offender shall be prohibited from renting or otherwise occupying a guest room in a motel as a permanent resident if there is another guest room in that motel that is already rented or otherwise occupied by a registered sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.

C. Separate Temporary Quarters. A registered sex offender shall be prohibited from renting or otherwise occupying temporary quarters as a permanent resident if that temporary quarters is (i) already rented or otherwise occupied by a registered sex offender as a permanent resident, or (ii) within three hundred (300) feet from another temporary quarters being rented or otherwise occupied by a registered sex offender, unless those persons are legally related by blood, marriage, or adoption.

9.44.060 Responsible Party Prohibition—Single-family and Multi-family Dwellings.

A. Same Dwelling. A responsible party shall be prohibited from knowingly allowing a single-family dwelling or a unit in a multi-family dwelling to be rented or otherwise occupied by more than one registered sex offender, regardless of the permanent or temporary/transient residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.

B. Multiple Dwellings. A responsible party shall be prohibited from knowingly allowing more than one unit in a multi-family dwelling to be rented or otherwise occupied by a registered sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.

C. Temporary Residency. A responsible party shall be prohibited from knowingly allowing a single-family dwelling, any unit in a multi-family dwelling, to be rented or otherwise occupied by a registered sex offender as a temporary/transient resident.

9.44.070 Responsible Party Prohibition—Motels and Temporary Quarters.

A. Same Motel Room. A responsible party shall be prohibited from knowingly allowing a guest room in a motel to be rented or otherwise occupied by more than one registered sex offender, regardless of the permanent or temporary/transient residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.

B. Separate Motel Rooms. A responsible party shall be prohibited from knowingly allowing a guest room in a motel to be rented or otherwise occupied by a registered sex offender as a temporary or permanent resident if there is already a registered sex offender renting or otherwise occupying another guest room in that motel as a temporary or permanent resident, unless those persons are legally related by blood, marriage, or adoption.

C. Separate Temporary Quarters. A responsible party shall be prohibited from knowingly allowing temporary quarters to be rented or otherwise occupied by a registered sex offender as a temporary or permanent resident if there is already a

registered sex offender renting or otherwise occupying that temporary quarters, unless those persons are legally related by blood, marriage, or adoption.

9.44.080 Eviction Requirements.

If, in order to comply with Section 9.44.060 or Section 9.44.070, a responsible party is required to terminate a registered sex offender's tenancy or other occupancy, then the responsible party shall comply with all applicable State law procedures and requirements governing the eviction of tenants of real property. If, in accordance with those procedures and requirements, a court determines such termination is improper, then the responsible party shall not be in violation of this chapter by allowing the registered sex offender to remain as a tenant or other occupant.

9.44.090 Penalty—Enforcement.

Notwithstanding any other penalty provided by this Code or otherwise by law, any person who violates this chapter shall be guilty of a misdemeanor; and, in addition, the City may take action against the violation by means of a civil enforcement process through a restraining order, a preliminary or permanent injunction, or by any other remedy available by law or equity.

9.44.100 Applicability.

The provisions of this chapter shall not apply to tenancies or other occupancies which legally commenced prior to June 1, 2012; provided, that it will apply to each temporary residency no matter when that residency commenced.

9.44.110 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, then such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares it would have adopted this chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 2. This ordinance shall take effect thirty (30) days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this ordinance and shall cause this ordinance to be posted in the manner required by law.

This Ordinance was introduced on _____, 2012, and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____, 2012, by the following electronic vote:

AYE: Councilmember(s):

NO: Councilmember(s):

John H. Linn, Mayor
City of Lompoc

Attest:

Stacey Alvarez, City Clerk
City of Lompoc