

ORDINANCE NO. 901
AN URGENCY ORDINANCE OF THE COUNTY OF RIVERSIDE
ESTABLISHING SEX OFFENDER RESIDENCY AND
LOITERING PROHIBITIONS

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. FINDINGS. Several studies conducted in California and throughout the United States demonstrate that there is a substantial threat posed by sex offenders. A 1998 U.S. Department of Justice study found that sex offenders are the least likely of all parolees to be cured and the most likely to reoffend, and they prey on the most innocent members of our society. More than two-thirds of the victims of rape and sexual assault are under the age of eighteen (18). In 2003, another U.S. Department of Justice study found that over five percent of sex offenders were arrested for another crime within three years of being paroled. The same study also found an estimated three percent of child molesters were rearrested for another sex crime against a child within three years, and that most of the children they were alleged to have molested were thirteen (13) years old or younger.

The Board of Supervisors is concerned about the public safety threat posed by the over concentration of sex offenders living on one lot within the County, and is further concerned that this public safety threat has not been adequately addressed by the provisions of Penal Code section 3003.5, subdivisions (a) and (b), nor have such concerns been adequately addressed by the California Department of Corrections and Rehabilitation of its Division of Parole, with respect to the placement, over concentration and oversight of sex offender parolees within the County of Riverside. The County is concerned about the significant public safety concerns posed by the presence of sex offenders near certain locations within the County of Riverside that are frequented by children, such as day care facilities, playgrounds, and other similar facilities, and is further concerned that such public safety concerns have not been adequately addressed by the provisions of Penal Code section 3003.5, subdivisions (a) and (b). The Board of Supervisors finds that given the immediate threat posed by sex offenders to the safety of children and other potential victims in many neighborhoods, it must take urgent, additional steps to monitor sex offenders, to protect the public from them, and to provide adequate penalties for and safeguards against sex offenders, particularly those that prey on children.

Section 2. PURPOSE. The purpose of this ordinance is to better protect the children of the County of Riverside by restricting the residency of any registered sex offender, whether or not on parole or probation.

Section 3. AUTHORITY. This ordinance is adopted pursuant to Penal code section 3003.5, subdivision (c), which authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of any registered sex offender, whether or not on parole or probation.

Section 4. DEFINITIONS. As used in this ordinance, the following terms shall have the following meanings:

- a. Child. Any person under the age of eighteen (18) years of age.
- b. Child Day Care Facility. Any State of California, Department of Social Services ("CDSS") licensed facility, as that term is defined under Health and Safety Code Section 1596.750, that provides non-medical care to children under 18 years of age 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 day care center, employer-sponsored child care center, family day care home, infant center, preschool, extended-day care facility, or school-age child care center.
- c. Child Safety Zone. Those areas located within a three hundred (300) foot radius of a child care center, public or private school, park, public library, public swimming or wading pool, commercial establishment that provides any area in or adjacent to such establishment as a children's playground, school bus stop, or any location that facilitates on the property classes or group activities for children.
- d. Duplex. A residential land use for a building containing two dwelling units.
- e. Hotel/Motel. 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.
- f. Inn. A commercial land use for the rental of five (5) or fewer guest rooms or suites primarily for temporary residency for a period of not more than thirty (30) consecutive days.
- g. Knowingly. With knowledge of the existence of the facts in question. Knowledge of the unlawfulness of any act or omission is not required.
- h. Loiter. To delay, linger, remain or wander without any apparent purpose.
- i. Multi-family Dwelling. A building designed for permanent residency for three (3) or more families living independently of each other. This does not include hotels, motels, or inns.
- j. Owner's Authorized Agent. Any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or the manager, lessee, agent, servant, officer or employee authorized to act for the owner of real property.
- k. Park. Any areas publicly owned, leased, controlled, maintained or managed by the County or the Riverside County Regional Park and Open-Space District which are open to public use for recreational, cultural and/or community service activities, and include, but are not limited to, beaches, playgrounds, playfields, athletic courts, and dog park recreation areas.
- l. Permanent Resident. 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 more than thirty (30) consecutive days.
- m. Property Owner. The owner of record of any parcel of real property as designated on the County Assessor's tax roll, or a holder of a subsequently recorded deed to the property and shall include any part owner, joint owner, tenant, tenant in common, or joint tenant, of the whole or a part of such real property.
- n. Residential Exclusion Zone. Those areas located within two thousand (2,000) feet of the nearest property line of the subject property to the nearest property line of a Child Day Care Facility, public or private school (grades K through 12), or Park in which a sex offender is prohibited from temporarily or permanently residing.
- o. Responsible Party. The Property Owner and/or the Owner's Authorized Agent.
- p. Sex Offender. Any person convicted of a crime for which registration is required pursuant to Section 290 of the California Penal Code.

- q. Single Family Dwelling. A building designed for permanent residency located on a single lot. Single Family Dwelling shall include a mobile home or manufactured home.
- r. Temporary Resident. 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.

Section 5. SEX OFFENDER RESIDENCY PROHIBITIONS.

- a. A sex offender shall be prohibited from becoming a Permanent or Temporary Resident in any Residential Exclusion Zone.
- b. 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.
- c. 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.
- d. A sex offender shall be prohibited from becoming a Permanent or Temporary Resident in a Hotel, Motel, or Inn room if said room is already occupied by a sex offender, unless the other person is legally related by blood, marriage or adoption.
- e. A sex offender shall be prohibited from becoming a Permanent or Temporary Resident in a Hotel, Motel or Inn if ten percent (10%) or up to a maximum of 6 units of the total dwelling units within the Hotel, Motel or Inn are already occupied by sex offenders ("Occupied Units"). Notwithstanding the above, a sex offender may be a Permanent or Temporary Resident of an Occupied Unit within a Hotel, Motel or Inn if the Occupied Unit is occupied by another sex offender legally related by blood, marriage or adoption.

Section 6. RESPONSIBLE PARTY PROHIBITIONS.

- a. A Responsible Party shall be prohibited from knowingly renting or leasing a Single Family Dwelling to more than one sex offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption.
- b. A Responsible Party shall be prohibited from knowingly renting or leasing any unit within a Duplex and/or Multi-family Dwelling to more than one sex offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption.
- c. A Responsible Party shall be prohibited from knowingly renting or leasing a guest room in a Hotel, Motel, or Inn to more than one sex offender, unless those persons are legally related by blood, marriage or adoption.

Section 7. SEX OFFENDER LOITERING PROHIBITIONS. No sex offender shall loiter in a Child Safety Zone except as follows:

- a. Where the sex offender is a minor, and he or she is present within three hundred (300) feet of a Child Safety Zone while accompanied by a parent or legal guardian.

- b. Where the sex offender is present within three hundred (300) feet of a Child Safety Zone only because he or she is accompanying a Related Minor to that site and only for so long as necessary to provide care or supervision to the Related Minor. As used herein, Related Minor means a minor to whom the sex offender is a legal parent or guardian.
- c. Where the sex offender is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion at a place of worship, or freedom of speech or the right of assembly at a traditional public forum.

Section 8. VIOLATIONS AND PENALTIES. Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor offense and punished by a fine not exceeding one thousand dollars (\$1000) or six months (6) in jail, or both. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted. The penalties herein are in addition to any other remedies provided by law and the payment of any penalty herein shall not relieve a person of the obligation to correct the violation.

Section 9. 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 this ordinance shall satisfy or diminish the authority of the County to commence civil or criminal proceedings under applicable local ordinances or State law as an alternative or in addition to the proceedings set forth in this ordinance.

Section 10. 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 ordinance shall be liable in a civil action filed by the County in any court of competent jurisdiction in order to enforce such provision and to pay reasonable abatement costs incurred by the County and costs of the suit as a court may deem appropriate, including any and all attorney fees incurred by the County in the prosecution of said enforcement action.

Section 11. ENFORCEMENT. The Sheriff, District Attorney, County Counsel and Code Enforcement shall have the primary responsibility for enforcing this ordinance.

Section 12. COPY OF ORDINANCE TO CALIFORNIA DEPARTMENT OF CORRECTIONS. The County of Riverside, Office of County Counsel 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.

Section 13. COPY OF ORDINANCE TO REGISTERED SEX OFFENDERS. The Riverside County Sheriff's Department is directed to send copies of this ordinance to any sex offender who, on the effective date of this ordinance, is registered as living within the unincorporated area of the County of Riverside.

Section 14. Nothing in this ordinance is intended to conflict with provisions of California's Megan's Law as codified in Penal Code Sections 290.4 and 290.46.

Section 15. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 16. EFFECTIVE DATE. This ordinance is hereby declared to be an urgency measure and shall take effect immediately upon its adoption. The findings in Section 1 of this ordinance support the need for this urgency measure and are incorporated herein by reference. Additionally, in accordance with the requirements of Government Code section 25123, subdivision (d), the Board of Supervisors hereby declares that the provisions contained herein are necessary for the immediate preservation of the public peace, health or safety for the following reasons: (1) the County of Riverside is becoming an increasingly attractive place of residence for families with children; (2) there are numerous registered sex offenders in the County of Riverside, including on parole; (3) the County is concerned with recent occurrences, elsewhere in California, where multiple registered sex offenders have been residing together in clusters and loitering near areas where children congregate, which, in the absence of this ordinance, may pose a public safety threat to children and others within the County of Riverside; (4) in the absence of the immediate effect of this ordinance, the safety of children and other potential victims in many neighborhoods would also be threatened; (5) the property values in many neighborhoods would also be substantially impacted.

Adopted: 3.90 of 07/27/2010 (Eff: immediately)

REPEALED BY: Ordinance No. 902 (Adopted: 3.54 of 09/14/2010, Effective 10/14/2010)