

ORDINANCE NO. 981

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING CHAPTER 9.44 TO THE LANCASTER MUNICIPAL CODE RELATING TO THE REGULATION OF REGISTERED SEX OFFENDERS

WHEREAS, the City of Lancaster (“City”) is becoming an increasingly attractive place for families with young children; and

WHEREAS, the City has a compelling interest in protecting children from registered sex offenders; and

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”) in order to better protect Californians, and in particular to protect children, from registered sex offenders; and

WHEREAS, Proposition 83, as codified in section 3003.5(b) of the California Penal Code, prohibits any person who is required to register as a sex offender under section 290 of the California Penal Code 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 section 3003.5 of the California Penal Code, expressly authorizes local governments to enact ordinances that further restrict the residency of any registered sex offender; and

WHEREAS, the City Council has determined that it is in the public interest and welfare to add Chapter 9.44 to the Lancaster Municipal Code, in order to further restrict the residency of registered sex offenders and to regulate the places that registered sex offenders may frequent.

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

Section 1. Chapter 9.44 (“Regulation of Registered Sex Offenders”) is hereby added to the Lancaster Municipal Code as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 28<sup>th</sup> day of August, 2012, and placed upon its second reading and adopted at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2012 by the vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
GERI K. BRYAN, CMC  
City Clerk  
City of Lancaster

\_\_\_\_\_  
R. REX PARRIS  
Mayor  
City of Lancaster

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss  
CITY OF LANCASTER             )

CERTIFICATION OF ORDINANCE  
CITY COUNCIL

I, \_\_\_\_\_, \_\_\_\_\_ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 981, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(seal)

**EXHIBIT "A"**

**CHAPTER 9.44**

**REGULATION OF REGISTERED SEX OFFENDERS**

**Sections:**

<b>9.44.010</b>	<b>Purpose.</b>
<b>9.44.020</b>	<b>Definitions.</b>
<b>9.44.030</b>	<b>Registered sex offender regulations and prohibitions.</b>
<b>8.56.040</b>	<b>Penalty.</b>
<b>8.56.050</b>	<b>Severability.</b>

**9.44.010 Purpose.**

The city desires to impose safety precautions based upon its compelling interest in protecting children from registered sex offenders by restricting registered sex offenders' access to locations where children regularly gather. The city council finds that registered sex offenders pose a clear threat to children. It is the purpose and intent of this chapter to reduce that threat by limiting the ability of registered sex offenders to be in contact with children. Currently, state law regulates where registered sex offenders may reside, but does not regulate or limit the areas that registered sex offenders may frequent. This chapter is intended to supplement, not to conflict with, existing state law by imposing more stringent restrictions on the locations where registered sex offenders may reside and by imposing restrictions on the locations that registered sex offenders may frequent.

**9.44.020 Definitions.**

Except as otherwise expressly set forth herein, the following words and terms as used in this chapter shall have the following meanings:

"Arcade" means any establishment containing four (4) or more electronic games (such as video games, pinball machines, etc.) or coin operated amusements.

"Child" or "children" means any person under the age of 18 years of age.

"Crisis center or shelter" means the buildings and grounds of facilities for victims of any violent crimes and/or emergencies (natural or man-made).

"Day care center" means any licensed child day care facility, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers. The term "day care center" does not include a family day care home as defined in Section 1596.78 of the California Health and Safety Code.

"Incidental proximity" means a single trip by a registered sex offender when traveling past a specified prohibited location while en route to another bona fide destination, if such travel is undertaken at a reasonable rate of speed and for the sole purpose of reaching the bona fide destination.

“Park” or “playground” means the following: (i) any land, including improvements thereon and/or thereto, administered, operated or managed by the city or any private home owners group for use by the public as a recreational area (such as a recreational center, jogging trail, hiking trail, bicycle trail, water park, swimming pool, soccer field or baseball field); and/or (ii) any area or land owned, leased, controlled, maintained or managed by a public entity that is open to the public where children regularly gather and that provides recreational, cultural and/or community service activities (such as a public park, playground, playfield, athletic court/field or amusement center).

“Permanent residence” means any place where a person abides, lodges or resides for fourteen (14) or more consecutive days.

“Registered sex offender” means any person who is required to register under Section 290 of the California Penal Code, regardless of whether or not such person is on parole or probation. It shall be prima facie evidence that a person is a registered sex offender if such person’s record appears in/on the Department of Justice Sex Offender Tracking Program Database.

“School” means the buildings and grounds of any public or private school used for purpose of educating children in kindergarten or any grades one (1) to twelve (12), inclusive.

“Temporary residence” means (i) any place where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate, during any calendar year, which is not such person’s permanent residence, or (ii) any place where a person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month, which is not such person’s permanent residence.

“Youth sports facilities” means the buildings and grounds of any public or private facility used for the purposes of sports activities and/or athletic events (performances and competitions) by and for children.

**9.44.030 Registered sex offender regulations and prohibitions.**

A. A registered sex offender shall not reside within 2,000 feet of any school, park or day care center. This subsection shall not apply to a registered sex offender who is registered as residing at an address within 2,000 feet of a school, park or day care center either (i) prior to initial operation of such school, park or day care center child care center, park or school, or (ii) on the effective date of this chapter.

B. A registered sex offender shall not reside in single family dwelling, multi-family dwelling, duplex dwelling, multi-unit residential dwelling, or hotel/motel/inn where another registered sex offender already resides. This subsection shall not apply under the following circumstances: (i) the California Department of Corrections & Rehabilitation has mandated placement of a registered sex offender in a state housing facility that houses multiple sex offenders at one time (including, but limited to, a prison or mental health facility), or (ii) registered sex offenders residing together who are related by blood, marriage or adoption.

C. A registered sex offender shall not be present within 300 feet of a school, day care center, park, bus stops in the immediate vicinity of parks, public and private playgrounds, public library, public museum, public or private crisis center or shelter, arcade, youth sports facilities, and amusement parks (indoor and outdoor), when children are present. This subsection shall not apply under the following circumstances: (i) a registered sex offender is a parent or guardian of a child and the child is present with the registered sex offender; (ii) a registered sex offender's place of residence is regulated by state law; (iii) if and to the extent it restricts access for the purpose of exercising a constitutionally protected right, such as free expression, speech, assembly, exercise of religion and/or travel; (iv) if and to the extent a registered sex offender is in incidental proximity to the protected location; and/or (v) if and to the extent a registered sex offender is lawfully employed at a location within 300 feet of the protected location.

D. On October 31st of each year, as well as on any day designated by the city for any Halloween trick or treating event, a registered sex offender, shall: (i) leave all exterior residential, decorative and ornamental lighting off during the hours of 5:00 p.m. to 11:59 p.m.; and (ii) not decorate his or her permanent residence with Halloween decorations, and remove any such decorations; and (iii) not answer the door to children who are trick-or-treating.

E. For the purpose of this chapter, distance shall be measured from the edge of the parcel or contiguous parcels where the identified use is located.

**9.44.040 Penalty.**

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, the penalty shall be a fine of not more than \$1,000 or imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.

**9.44.050 Severability.**

If any part or provision of this chapter is found to be invalid or unenforceable by a court of law, such invalidity shall not affect any other part or provision herein, and all remaining provisions of this chapter will be valid and enforceable to the fullest extent permitted by law.