

ORDINANCE NO. 29

AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, MAKING FINDINGS AND IMPOSING RESIDENCY RESTRICTIONS ON REGISTERED SEX OFFENDERS

THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings

A. On November 7, 2006, the voters of the State of California approved Proposition 83. The law was entitled the Sexual Predator Punishment and Control Act, and is commonly referred to as "Jessica's Law." Among other restrictions, Proposition 83 added Penal Code section 3003.5(b), which states that registered sex offenders cannot live within 2,000 feet of any public or private school, or park where children regularly gather. Also added was subsection (c), which allows local jurisdictions to enact local ordinances which further restrict those areas where a registered sex offender may live.

B. On January 1, 2007, Proposition 83 went into effect. The intent of Proposition 83 was to better protect Californians, and in particular, the children of this State from sex offenders by imposing residency restrictions on such registered sex offenders.

C. Current law requires offenders convicted of specified felony or misdemeanor sex crimes to register with local law enforcement officials. There are approximately 90,000 registered sex offenders in California.

D. Current law bars parolees convicted of specified sex offenses against a child from residing within one-quarter or one-half mile (1,320 or 2,640 feet, respectively) of a school. The longer distance is for those parolees identified as high risk to reoffend by the California Department of Corrections and Rehabilitation ("CDCR"). Jessica's Law further prohibits sex offenders from residing within 2,000 feet of a public or private school, or park where children regularly gather.

E. The Wildomar Municipal Code does not otherwise address or regulate in any manner the restrictions on the residency of sex offenders in close proximity to schools or parks where children regularly gather.

F. Recently, several cities in the State of California have adopted ordinances restricting the residency of registered sex offenders. For example, the City of Long Beach passed an ordinance in 2008, to prohibit sex offenders from residing in a "residential exclusion zone," including those areas within 2,000 feet from the closest property line of a child care center, public or private school grades K through 12, or park.

G. These ordinances have been passed in response to an increased concern around the protection of children from sex offenders in schools and parks where

children regularly gather. The State of California currently places a high priority on maintaining public safety through a highly skilled and trained law enforcement, as well as laws that deter and punish criminal behavior. Californians have a right to know about the presence of sex offenders in their communities, near their schools, and around their children.

H. Sex offenders have very high recidivism rates. According to a 1998 report by the U.S. Department of Justice, sex offenders are the least likely 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 18. Sex offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon.

I. California must also take 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 who prey on children. Additional resources are necessary to adequately monitor and supervise sexual predators and offenders.

J. Global Positioning System ("GPS") technology is an useful tool for monitoring sexual predators and other sex offenders and is a cost effective measure for parole supervision. It is critical to have close supervision of this class of criminals, to monitor these offenders and prevent them from committing other crimes. Jessica's Law requires lifetime GPS monitoring of felony registered sex offenders.

K. Currently, the scope of Jessica's Law is the subject of ongoing litigation. On October 4, 2007, four individuals filed petitions for writ of habeas corpus with the California Supreme Court.¹ The petitioners challenged the enforcement of the residency restrictions of Jessica's Law and argued that (a) the restrictions should not apply to them because the crimes for which they were required to be registered as sex offenders did not involve children, (b) the residency restrictions effectively zoned them out of their counties of residence, and (c) the law is unconstitutionally vague and imposes unreasonable conditions on parole. The Supreme Court issued a stay on the application of the residency restrictions to these four individuals while the case is pending. On October 15, 2007, the Supreme Court refused to apply the stay to other parolee registered sex offenders beyond the four petitioners. The Supreme Court denied the application without prejudice to the filing of an action for declaratory and injunctive relief in an appropriate superior court. The matter is still pending before the Supreme Court.

L. Based on the foregoing, the City Council finds that imposing additional restrictions on the residency of sex offenders would protect the public health, safety, and welfare. The City finds that an ordinance to restrict the residency of sex offenders is therefore necessary.

SECTION 2. Restrictions on Convicted Sex Offenders

¹ *In re E.J. on Habeas Corpus*, S156933.

A. In accordance with the authority granted the City of Wildomar under Proposition 83, and pursuant to the findings stated herein, from and after the effective date of this ordinance, registered sex offenders may not reside within a "Residential Exclusion Zone."

B. A "Residential Exclusion Zone" shall include those areas located within two thousand (2,000) feet of the closest property line of the subject property to the closest property line of a public or private school grades K through 12, a child care center, including but not limited to day care centers, family home day cares, nursery schools and preschools, a park, or a youth center. A youth center is any facility primarily dedicated to use by individuals under the age of 18 for recreational and sports purposes.

C. A Residential Exclusion Zone map shall be prepared by the City and adopted by resolution of the City Council. The Residential Exclusion Zone map may be amended by resolution of the City Council from time to time to assure that it reflects current conditions within the City.

SECTION 3. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

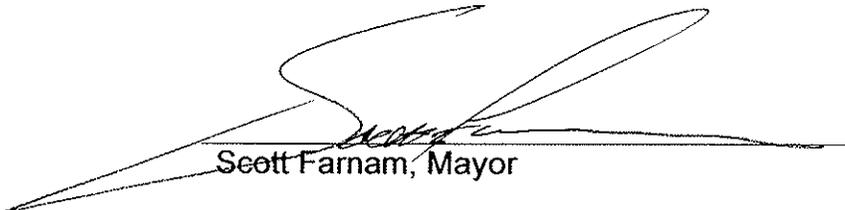
SECTION 4. Effective Date

This ordinance shall become effective 30 days after its enactment in accord with California law.

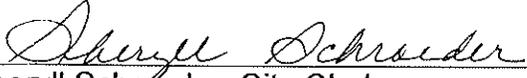
SECTION 5. Publication

The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published within the City of Wildomar.

PASSED, APPROVED AND APPROVED this 13th day of May, 2009.


Scott Farnam, Mayor

ATTEST:



Sheryll Schroeder, City Clerk

APPROVED AS TO FORM:



Julie Hayward Biggs, City Attorney

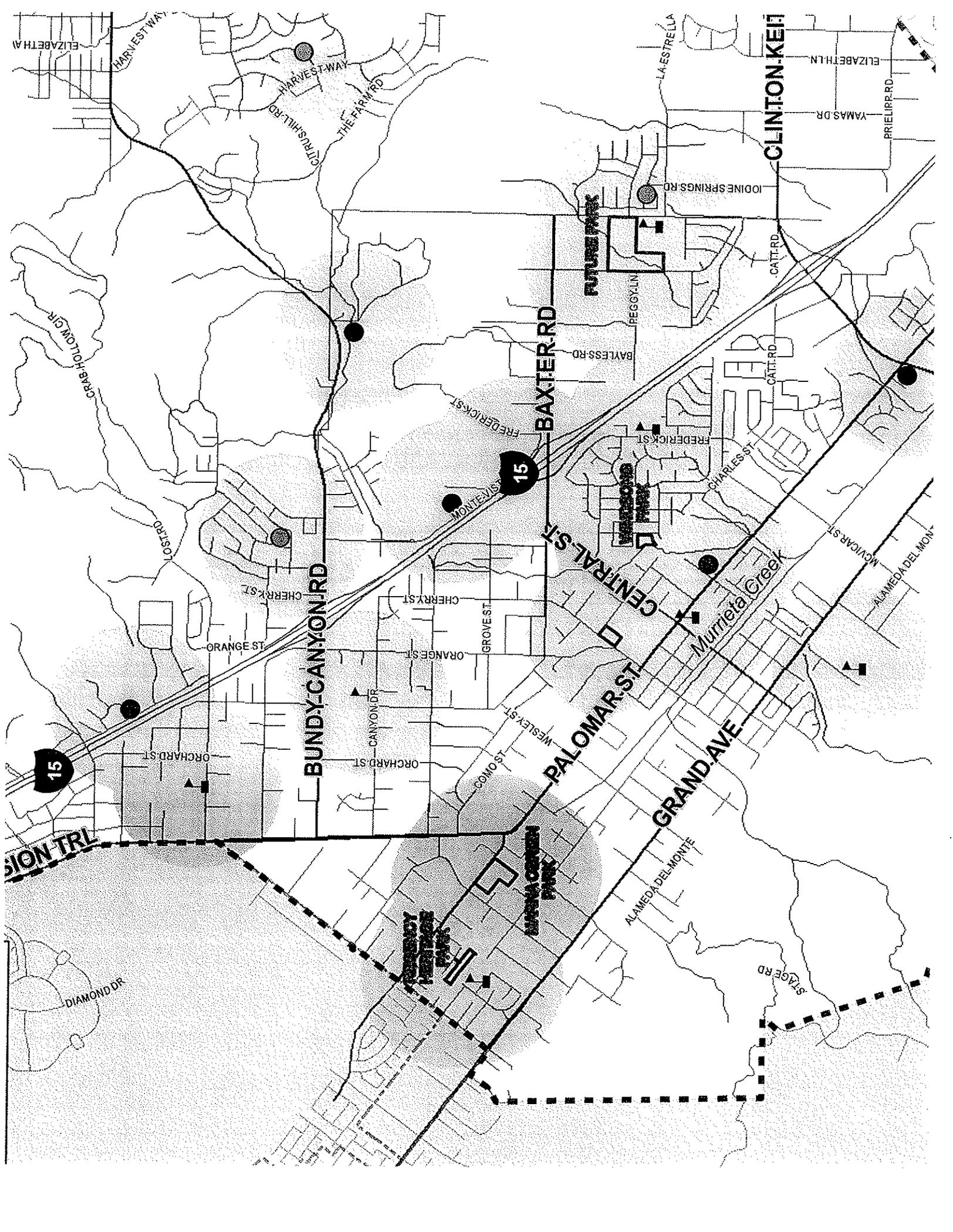
STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF WILDOMAR)

I, Sheryll Schroeder, City Clerk of the City of Wildomar, do hereby certify that the foregoing Ordinance No. 29 was introduced at a regular meeting of the Wildomar City Council on April 22, 2009 and duly adopted by the City Council of the City of Wildomar at a regular meeting, held on the 13th day of May, 2009, by the following vote of the Council:

- AYES: Mayor Farnam, Mayor Pro Tem Moore, Council Members Ade, Cashman, Swanson
- NOES: None
- ABSTAIN: None
- ABSENT: None



Sheryll Schroeder, City Clerk



ELIZABETH A

HARVEST WAY

HARVEST WAY

CITRUS HILL RD

THE FARM RD

LA ESTRELLA

ELIZABETH LN

YAMAS DR

PRIELIPE RD

IODINE SPRINGS RD

FUTURE PARK

BAYLESS RD

REGOY LN

CATT RD

CLINTON KEIT

CRAIG OLSON CIR

COST RD

CHERRY ST

CHERRY ST

ORANGE ST

ORANGE ST

GROVE ST

CANYON DR

ORCHARD ST

ORCHARD ST

WESLEY ST

WARREN'S PARK

FREDERICK ST

CHARLES ST

MURRIETA GREEK

MCCUIP RD

ALAMEDA DEL MONTE

15

15

BUNDY CANYON RD

BAXTER RD

CENTRAL ST

PALOMAR ST

GRAND AVE

MISSION TRAIL

AGENCY PARK

WARREN'S PARK

DIAMOND DR

STAGE RD