

ORDINANCE NO. 66
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, ADDING A NEW CHAPTER 9.55 TO THE WILDOMAR MUNICIPAL
CODE RELATING TO SEX OFFENDER RESIDENCY AND LOITERING
PROHIBITIONS

THE CITY COUNCIL OF THE CITY OF WILDOMAR ORDAINS AS FOLLOWS:

SECTION 1. Addition of Chapter 9.55. A new Chapter 9.55 "Sex Offender Residency and Loitering Prohibitions" is hereby added to Title 9 "Public Peace, Morals and Welfare" of the Wildomar Municipal Code, and shall read as follows:

"Chapter 9.55 – SEX OFFENDER RESIDENCY
AND LOITERING PROHIBITIONS

9.55.010 - Purpose.

9.55.020 - Authority.

9.55.030 - Application.

9.55.040 - Definitions.

9.55.050 - Sex offender residency prohibitions.

9.55.060 - Property owner prohibitions.

9.55.070 - Sex offender loitering prohibitions.

9.55.080 - Violations and penalties.

9.55.090 - Civil actions.

9.55.100 - Enforcement.

9.55.110 - Copy of ordinance to California Department of Corrections.

9.55.120 - Copy of ordinance to registered sex offenders.

9.55.010 - Purpose. The purpose of this ordinance is to restrict the residency of sex offenders to a further extent than that specified in subdivisions (a) and (b) of Penal Code section 3003.5 and to prohibit sex offenders from loitering in certain areas.

9.55.020 - Authority. This ordinance is adopted pursuant to subdivision (c) of Penal Code section 3003.5 which authorizes local jurisdictions to enact ordinances that further restrict the residency of sex offenders.

9.55.030 - Application. This ordinance shall apply to sex offenders released from custody for any criminal offense on or after the effective date of this ordinance.

9.55.040 - Definitions. As used in this ordinance, the following terms shall have the following meanings:

- a. Building. A structure supported by columns or walls that is more or less permanently located on the ground or affixed to something permanently located on the ground, including a mobile home or manufactured home.
- b. Child day care facility. A facility licensed by the State of California that meets the definition set forth in Health and Safety Code section 1596.750.
- c. Child safety zone. The area located within 300 feet of any of the following: a child day care facility, a public or private school, a public or private school bus stop, a park, a public library, a public swimming or wading pool, a commercial establishment that has an on-site or adjacent children's playground, or a place where classes or group activities for children are held.
- d. Dwelling. A building, or portion thereof, designed or occupied for residential purposes, including a building used to house a single family or two or more families, but not including a transient occupancy facility or a state-licensed residential care facility serving six or fewer persons in the limited circumstance described in the subsection a. of this ordinance.
- e. Knowingly. With knowledge of the existence of the facts in question. Knowledge of the unlawfulness of any act or omission is not required.
- f. Loiter. To delay, to linger or to idle without lawful business for being present.
- g. Park. Any area owned, leased, controlled, managed or maintained by the city on which the public may engage in recreational, cultural or community service activities, including, but are not limited to, playgrounds, playfields, athletic courts and dog parks.
- h. Property owner. The person designated on the latest equalized county assessment roll as the owner of the parcel in question, or the holder of a subsequently recorded deed to the parcel in question, including, but not limited to, a part owner, joint owner, joint tenant or tenant in common of the whole or any part of the parcel in question. Property owner shall include any person or entity authorized by the property owner to act on his or her behalf.
- i. Released from custody. Released on parole, probation or otherwise following conviction.
- j. Related by blood, marriage or adoption. Consanguinity, affinity or adoption within the fourth (4th) degree.

k. Reside. Occupy for any period of time pursuant to a legal right obtained as of a certain date.

l. Sex offender. A person required to register pursuant to Penal Code section 290.

m. State-licensed residential care facility. A facility licensed by the State of California to provide residential care services, including those facilities described in Health and Safety Code sections 1250 et seq., 1500 et seq., 1568.01 et seq., 1569 et seq., 1760 et seq., and 11834.20 et seq. and those facilities described in Welfare and Institutions Code section 5116.

n. Transient occupancy facility. A building, or portion thereof, designed or occupied for temporary residential purposes, typically for a period of not more than 30 days, including, but not limited to, a hotel, motel or inn.

9.55.050 - Sex offender residency prohibitions. A sex offender shall not do any of the following:

a. Reside in a dwelling if a sex offender already resides there, unless the sex offenders are legally related by blood, marriage or adoption. Notwithstanding this prohibition, a sex offender on parole, may, during the period of parole, reside in a state-licensed residential care facility serving six or fewer persons even if the facility is already occupied by a sex offender. As provided in subdivision (a) of Penal Code section 3003.5, a state-licensed residential care facility shall not be considered a dwelling in this limited circumstance. In determining whether a state-licensed residential care facility serves six or fewer persons, the licensee, members of the licensee's family and persons employed as facility staff shall not be counted.

b. Reside in a room in a transient occupancy facility if a sex offender already resides there, unless the sex offenders are legally related by blood, marriage or adoption.

c. Reside in a transient occupancy facility if sex offenders already reside in ten percent of the facility, or they already reside in more than six rooms, whichever is less.

9.55.060 - Property owner prohibitions. A property owner shall not do any of the following:

a. Knowingly rent or lease a dwelling to more than one sex offender, unless the sex offenders are legally related by blood, marriage or adoption. Notwithstanding this prohibition, a property owner may, for the reasons set forth in subsection 9.55.040a of this ordinance, rent or lease

space to a sex offender on parole, during the period of parole, in a state-licensed residential care facility serving six or fewer persons, even if the facility is already occupied by a sex offender.

b. Knowingly rent or lease a room in a transient occupancy facility to more than one sex offender, unless the sex offenders are legally related by blood, marriage or adoption.

c. Knowingly rent or lease a room in a transient occupancy facility to a sex offender if sex offenders already reside in ten percent of the facility, or they already reside in more than six rooms, whichever is less.

9.55.070 - Sex offender loitering prohibitions. A sex offender shall not loiter in a child safety zone. It shall not be considered loitering for a sex offender to do any of the following:

a. Remain in a child safety zone if the sex offender is a minor and accompanied by a parent or legal guardian.

b. Escort a minor to a place within a child safety zone if the sex offender is the parent or legal guardian of the minor and if the sex offender remains in the child safety zone only for so long as is necessary to provide care or supervision to the minor.

c. Exercise 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.

9.55.080 - 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 \$1,000.00 or six months 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 imposition of any penalty herein shall not relieve a person of the obligation to correct the violation or prevent the city from commencing any proceeding to ensure that the violation is corrected.

9.55.090 - Civil actions. Any person violating any provision of this ordinance shall be subject to a civil enforcement action filed by the city in any court of competent jurisdiction and shall be subject to reasonable abatement costs, costs of suit and attorney's fees incurred by the city.

9.55.100 - Enforcement. The police department, district attorney, city attorney and code enforcement officer shall enforce the provisions of this ordinance.

9.55.110 - Copy of ordinance to California Department of Corrections. On the effective date of this ordinance, the city attorney is directed to send a copy of this ordinance to the California Department of Corrections and Rehabilitation.

9.55.120 - Copy of ordinance to registered sex offenders. On the effective date of this ordinance, the police chief is directed to send copies of this ordinance to any sex offender who lives within the city.”

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held 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 hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. Effective Date. This ordinance shall take immediate effect upon its passage by the City Council.

SECTION 4. Publication. The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.

PASSED, APPROVED, AND ADOPTED this 11th day of January, 2012.



Ben J. Benoit
Mayor

APPROVED AS TO FORM:

ATTEST:



Julie Hayward Biggs
City Attorney



Debbie Lee
City Clerk

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

I, Debbie A. Lee, CMC, City Clerk of the City of Wildomar, California, do hereby certify that the foregoing Ordinance No. 66 was introduced at a regular meeting of the City Council of the City of Wildomar, California, on December 14, 2011, and was duly adopted at a regular meeting held on January 11, 2012, by the City Council of the City of Wildomar, California, by the following vote:

AYES: Mayor Benoit, Mayor Pro Tem Walker, Council Members Cashman, Moore, Swanson

NOES: None

ABSTAIN: None

ABSENT: None



Debbie A. Lee, CMC
City Clerk
City of Wildomar