

ORDINANCE NO. 21-971

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA PUENTE, CALIFORNIA, ADDING CHAPTER 3.74 TO TITLE 3 (PUBLIC SAFETY AND MORALS) OF THE LA PUENTE MUNICIPAL CODE RELATING TO REGISTERED SEX OFFENDER RESIDENCY RESTRICTIONS

WHEREAS, on November 7, 2006, the voters of the State of California approved Proposition 83, the “Sexual Predator Punishment and Control Act,” commonly referred to as “Jessica’s Law,” so as to better protect Californians, and in particular, to protect California’s children from sex offenders; and

WHEREAS, Jessica’s Law, codified under California Penal Code section 3003.5 prohibits registered sex offenders from residing within 2,000 feet of any school or park where children regularly gather; and

WHEREAS, the California Supreme Court in *In re Taylor* (2015) 60 Cal.4th 1019 found Proposition 83 to violate the U.S. Constitution as applied in San Diego County, specifically finding that the distance restrictions in Jessica’s Law as applied effectively eliminated any realistic housing opportunities for sex offenders; and

WHEREAS, both the California Department of Corrections and Rehabilitation and Los Angeles County Sheriff’s Department are not currently enforcing the residency restrictions of Jessica’s Law based upon *In Re Taylor*; and

WHEREAS, the California Legislature has enacted numerous other regulations concerning the activities of registered sex offenders, including but not limited to, (1) California Penal Code section 3003.6, which prohibits registered sex offenders who have committed an offense against a minor from residing, working and/or volunteering in a child day care facility or a home or facility that receives a placement for a child who is declared a dependent or ward of the juvenile court, and (2) California Penal Code section 3003.5 (a), which prohibits a registered sex offender, during the period of his or her parole, from residing in a single family dwelling with another registered sex offender, unless those persons are legally related by blood, marriage or adoption; and

WHEREAS, on January 10, 2014, the Fourth District of California issued a public opinion in the matter of *People v. Nguyen* (2014) 222 Cal.App.4th 1168, which: (1) determined that the State of California has “created a standardized statewide system” to regulate sex offenders and to “protect victim and potential victims from future harm” and (2) held that a local ordinance which exceeds the state law standards was impliedly preempted; and

WHEREAS, the California Supreme Court declined to review the *Nguyen* decision on April 28, 2014, making *Nguyen* citable as precedent in California; and

WHEREAS, in light of *Nguyen* and its binding determination that California has established a “statewide system” for regulating sex offenders, the City Council finds it appropriate to adopt the residency restrictions as codified in California Penal Code sections 3003.6 and 3003.5 (a), and now desires to amend Title 3 (Public Safety and Morals) of the La Puente Municipal Code by adding Chapter 3.74, entitled “Sex Offender Residency Restrictions.”

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

Section 1. Findings.

The City Council finds that the above Recitals are true and correct and are incorporated herein by reference.

Section 2. La Puente Municipal Code Amendment.

Chapter 3.74 of Title 3 of the La Puente Municipal Code is hereby added in its entirety as follows:

Section 3.74.010. Definitions.

- (a) “Child” or “children” means any person(s) younger than eighteen (18) years of age.
- (b) “Dependent child” shall mean and refer to a child subject to the jurisdiction of the juvenile court as defined in California Welfare and Institutions Code section 300.
- (c) “Registered sex offender” means 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. For purposes of this chapter, “registered sex offender” includes those person(s) who have failed to register pursuant to California Penal Code section 290.
- (d) “Single family dwelling” shall mean a residential structure on a single parcel containing one (1) dwelling unit designed for use by one (1) family. For purposes of this Chapter, a single family dwelling shall not include any state-licensed residential facility which services six (6) or fewer persons.
- (e) “Ward” shall mean and refer to a child subject to the jurisdiction of the juvenile court as defined in Welfare and Institutions Code sections 601 or 602.

Section 3.74.020. Prohibition.

- (a) Any registered sex offender who has committed an offense against a child is prohibited from residing, except as a client, working or volunteering at:

(1) A child day care facility or children’s residential facility that is licensed by the State Department of Social Services, a home certified by a foster family agency, or a home approved by a county child welfare service agency; and,

(2) A home or facility that receives a placement of a child who has been, or may be, declared a dependent child or ward of the juvenile court.

(b) When a person is released on parole after serving a term of imprisonment in state prison for any offense for which he or she is required to register as a sex offender, that person may not, during the period of parole, reside in any single family dwelling with any other registered sex offender, unless those persons are legally related by blood, marriage, or adoption.

Section 3.74.030. Enforcement.

Any person who violates Section 3.74.020 (a) is guilty of a misdemeanor.

Section 3. Clerical Errors.

The City Council directs the City Clerk to correct any clerical errors found in this Ordinance including, but not limited to, typographical errors, irregular numbering and incorrect section references.

Section 4. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid, unenforceable, or unconstitutional.

Section 5. Effective Date.


In accordance with California Government Code section 36937, this Ordinance shall take effect and be in force thirty (30) days from passage and adoption.

Section 6. Publication.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this ordinance to be published and posted as required by law.


PASSED, APPROVED AND ADOPTED this 23rd day of February, 2021, by the following vote:

AYES: COUNCILMEMBERS: Klinakis, Munoz, Argudo, Quinones
NOES: COUNCILMEMBERS: Lewis
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None



Charlie Klinakis, Mayor

ATTEST:



Sheryl Garcia, City Clerk