



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

WORKSHOP: September 9, 2008

SUBJECT: Workshop to discuss proposed Ordinance No. 08-1413 regarding residence and loitering restrictions for sex offenders

APPLICANT: City of Carson – Planning Division

REQUEST: Direct staff to revise or finalize the draft ordinance to establish residence and loitering restrictions for sex offenders within the city of Carson

PROPERTY INVOLVED: Citywide

COMMISSION ACTION

- Concurred with staff
- Did not concur with staff
- Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Saenz
		Cannon			Verret
		Graber			

I. **Introduction**

On March 18, 2007, the City Council discussed the issue of residence and loitering restrictions for sex offenders and directed staff to prepare an ordinance to be considered by the Planning Commission. On July 22, 2008, the Planning Commission held a workshop to discuss possible residency, time and distance requirements on registered offenders. The Planning Commission provided direction and requested an additional workshop on September 9. On September 2, 2008, the City Council approved Urgency Ordinance No. 08-1413U to amend Article IX by adding Chapter 9122.9, Section 9138.72, and Section 9182.31 and amending Article IV by adding Chapter 14 to the Carson Municipal Code regarding residence and loitering restrictions for sex offenders for 45 days unless extended by the City Council. The urgency ordinance is effective immediately and will remain in effect if the urgency ordinance is extended or until a permanent ordinance is adopted.

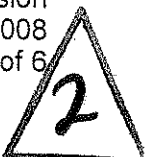
II. **Background**

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, so as to better protect California and in particular, children from sex offenders. Proposition 83 prohibits any registered sex offender, on parole to the California Department of Corrections and Rehabilitation – Division of Adult Parole Operations, from residing within 2,000 feet of any public or private school, or any park where children regularly gather. Proposition 83 also authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of any registered sex offender, whether or not on parole or probation.

There is a current constitutional question associated with Jessica's Law. The California Supreme Court has tabled the revocation of probation for violations of Jessica's Law until it can review the residency restriction. There is a suggestion that the Supreme Court may view as Jessica's Law unconstitutional residency restrictions that substantially eliminate all meaningful housing choices within a city.

In March 2008, it was brought to the city's attention that there was an over-concentration of sex offenders at the Carson Plaza Hotel. The over-concentration was a result of the hotel being located outside of the 2,000-foot buffer areas required by Jessica's Law. The over-concentration of sex offenders created public unrest and generated wide-spread concern from the public in regards to their safety and protection of their children. On March 18, 2008, the City Council was advised of the potential concentrations of paroled registered sex offenders in residential neighborhoods where children are present and in hotels, motels, or inns where children gather, and cared for, or are present. Subsequently, the City Council directed staff to immediately prepare an ordinance to be considered by the Planning Commission.

On July 22, 2008, it was brought to the attention of the Los Angeles County Sherriff's Department that there is an over-concentration of sex offenders residing within a



residential neighborhood at 2510 and 2512 East Harrison Street. A duplex located at 2510 and 2512 East Harrison Street is housing several paroled sex offenders. The duplex operates as a sober living/residential facility as classified by the County Health Department and is therefore legally limited to six or fewer sex offenders within each unit, or a maximum of 12 offenders for this particular parcel. The number of sex offenders can fluctuate and is subject to change on a daily basis due to the nature of parole. This facility is considered a sober living facility/residential facility according to Health and Safety Code Section 1566.3. Residential facilities are legally protected to house six or fewer persons regardless of their status as a sex offender.

Once notified of the over-concentration of sex offenders at the Harrison Street property, the Los Angeles Sheriff's Department immediately distributed a letter on July 22, 2008 informing residents in the neighborhood of the over-concentration of sex offenders and of a community meeting to discuss the issue of sex offenders on July 29, 2008. During this meeting, community residents expressed deep concern for their safety, children's safety, and general welfare of the public.

On July 22, 2008, the Planning Commission conducted a workshop to consider the ramifications of regulating sex offender residency. There were concerns that the over-concentration issues at both the Carson Plaza Hotel and the Harrison Property were a direct result of the required 2,000-foot buffer placed by Jessica's Law. An unintended consequence of Jessica's Law is the increased demand for housing locations outside of the required 2,000-foot buffer area. To prevent the city's residential neighborhoods and hotels or motels from becoming over-concentrated with registered sex offenders, the Planning Commission directed staff and the City Attorney's Office to prepare an ordinance that would place limitations on the number of sex offenders able to reside in a residential dwelling, mobilehome, motel or hotel. The Planning Commission also provided direction related to buffer areas for child day care facilities.

Information regarding the Harrison Street property brought on immediate concerns for the public safety due to the over-concentration of sex offenders living on one parcel within the city. The city has since been advised that another facility housing 5 sex offenders has established at 21256 S. Alameda Street. This threat has not been adequately addressed by the provisions of Penal Code §3003.5(a) and (b), nor have such concerns been adequately addressed by the California Department of Corrections and Rehabilitation or its Division of Parole, with respect to the placement, over-concentration and oversight of sex offender parolees within the city.

Under existing state laws, the city of Carson has a significant potential to house sex offenders within neighborhoods and areas that are outside the 2,000-foot buffer created by Jessica's Law. To address immediate concerns and threats to public safety, the City Council approved Urgency Ordinance No. 08-1413U regarding residence and loitering restrictions for sex offenders. In order to address long-term concerns and threats, staff and the City Attorney's Office has prepared Ordinance No. 08-1413.

The following is a tentative schedule that will allow for a permanent ordinance to take effect as quickly as possible. In order to prevent any period of time where the public safety will be jeopardized, staff will request an extension to Urgency Ordinance No. 08-1413U from the City Council on October 7, 2008.

Table 1 - Timeline

	Urgency Ordinance	Permanent Ordinance
September 9		Planning Commission Workshop
September 23		Planning Commission Public Hearing
October 7	City Council Extends Urgency Ordinance	City Council Public Hearing and Introduction of Permanent Ordinance
October 21		Second Reading and Adoption of Permanent Ordinance

III. Analysis

The ordinance will establish regulatory authority regarding residence and loitering restrictions for sex offenders. Staff proposes to amend the Carson Municipal Code by adding new sections within Article IX (Zoning) and a new chapter to Article IV (Public Peace). The draft ordinance proposes the following restrictions (for the complete ordinance and all restrictions, please see Exhibit 6):

Sex Offender Residency Restrictions

- *Residential Exclusion Zone*

Reinforces the requirements of Jessica's Law by prohibiting sex offenders from temporarily or permanently residing 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 or park. The draft ordinance also includes restrictions that prohibit sex offenders from temporarily or permanently residing within three hundred (300) feet of the closest property line of the subject property to the closest property line of a child care center.

- *Density Restrictions*

No sex offender shall be allowed to occupy a mobile home, single family dwelling, second unit dwelling, multiple dwelling, or a residential condominium unit, already occupied by a sex offender unless those persons are legally related by blood, marriage or adoption.

Multiple Dwellings and Mobilehome Parks

No sex offender shall be a permanent or temporary resident in a multiple dwelling if ten percent or a maximum of 6 units of the total dwelling units within the multiple dwelling are already occupied by sex offenders.



Hotel/Motel/Rooms

No sex offender shall obtain occupancy in a guest room of a hotel, residential hotel, or motel already occupied by a sex offender, unless those persons are legally related by blood, marriage, or adoption. No sex offender may be a permanent or temporary resident in a hotel, residential hotel, or motel if ten percent or a maximum of 6 units of the total dwelling units within the hotel, residential hotel, or motel are already occupied by sex offenders.

- *Nonconformity*

A lawfully established temporary or permanent residence for a sex offender subject to the provisions of Section 9122.9 and Section 9138.72 shall be permitted to continue indefinitely provided the residential dwelling is not occupied by more than one (1) sex offender, unless those persons are legally related by blood, marriage or adoption.

The establishment of a legal, nonconforming status for dwellings with an over-concentration of sex offenders allows an abatement period to be established. A lawfully established temporary or permanent residence for a sex offender subject to the provisions of Section 9122.9 and Section 9138.72 which becomes nonconforming as a result of two (2) or more sex offenders, not legally related by blood, marriage or adoption, residing in the residential dwelling shall be made conforming within six (6) months from the effective date of the ordinance which results in the nonconformity.

Staff will send notification to all affected property owners and registered sex offenders to ensure quick and efficient compliance with the new regulations.

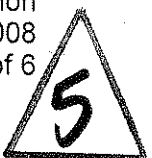
Loitering Restrictions

- *Child Safety Zone*

The proposed ordinance defines a "Child Safety Zone" to include areas located within a three hundred (300) foot radius of a child care center, public or private school, park, public library, 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.

No Sex Offender shall loiter in a "Child Safety Zone" except as follows:

- a) Where the Sex Offender is a minor, and he/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/she is accompanying a Related Minor to that site and only for so long as necessary to provide care and/or supervision to the Related Minor. As used herein, Related Minor means a minor to whom the Sex Offender is the 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.

IV. Recommendation

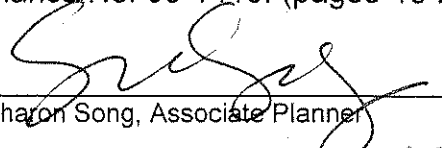
That the Planning Commission:

- CONSIDER and DISCUSS the draft ordinance to establish residence and loitering restrictions for sex offenders within the city of Carson; and
- DIRECT staff to revise or finalize the draft ordinance in preparation for the public hearing scheduled for September 23, 2008

V. Exhibits

1. City Council Staff Report dated March 18, 2008, without exhibits. (pages 7-9)
2. City Council Minutes dated March 18, 2008. (page 10)
3. Planning Commission Staff Report dated July 22, 2008, without exhibits. (pages 11-13)
4. Supplemental Planning Commission Staff Report dated July 22, 2008. (pages 14-16)
5. Planning Commission Minutes dated July 22, 2008. (page 17)
6. Draft Ordinance No. 08-1413. (pages 18-26)

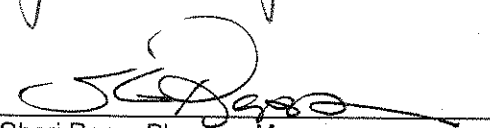
Prepared by:

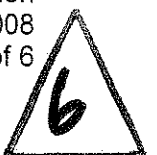

Sharon Song, Associate Planner

Reviewed by:


John F. Signo, AICP, Senior Planner

Approved by:


Sheri Repp, Planning Manager





City of Carson Report to Mayor and City Council

March 18, 2008
New Business Discussion

SUBJECT: CONSIDERATION OF A DRAFT ORDINANCE REGARDING RESIDENCE AND LOITERING RESTRICTIONS FOR SEX OFFENDERS

Submitted by William W. Wynder
City Attorney

Approved by Jeromé G. Groomes
City Manager

I. SUMMARY

This item is on the City Council agenda at the joint request of Mayor Dear and Councilmember Gipson.

Recently the City Council has been advised of the potential for concentrations of paroled registered sex offenders in residential neighborhoods where children are present, or in hotels, motels, or inns or other locations where children gather or are cared for or are present as paying guests.

The attached draft ordinance is intended to address the potential threat to public safety posed by "clustering" or "over concentration" of paroled registered sex offenders in or near such locations. Attached as Exhibit No. 1 is the draft ordinance.

II. RECOMMENDATION

TAKE the following actions:

1. CONSIDER the draft ordinance and PROVIDE comments.
2. REFER the draft ordinance to the Planning Commission for review and recommendation to the City Council.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

Working cooperatively with the city of Long Beach and the county of Los Angeles, the Office of the City Attorney has adapted an ordinance that is intended to address whether the city can regulate to prevent the "clustering" of paroled registered sex offenders in locations where children reside, play, gather, or are cared for.

EXHIBIT NO. 1



Our review of Penal Code § 3003.5(c) leads to the conclusion that the city has the legal authority to regulate the placement of sex offenders by defining "single family residential uses." With the appropriate findings and legislative history, the Office of the City Attorney is of the further opinion that the attached ordinance can be made to be given retroactive application so as to apply to sex offenders already in our community and the property owners who rent to them.

The draft ordinance would do the following:

1. Prohibit a registered sex offender from "loitering" (as that term is defined by law) in a "child safety zone," defined in the draft ordinance as those areas located within a three hundred (300) foot radius of a child care center, public or private school, park, public library, 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.

2. Prohibit a registered sex offender from permanently or temporarily residing within a Residential Exclusion Zone, defined in the draft ordinance as those areas located within a two thousand (2,000) foot radius of a public or private school, or park in which a sex offender is prohibited from temporarily or permanently residing.

3. Prohibit a registered sex offender from obtaining occupancy in a Dwelling, Single Family Dwelling, Multi-family Dwelling, Duplex Dwelling, Condominium Unit or a Hotel, or Motel already occupied by a Sex Offender, unless those persons are legally related by blood, marriage, or adoption.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Draft Ordinance (pgs. 4-9)
2. California Penal Code § 3003.5 (pg. 10)

Prepared by: William Wynder, City Attorney



sf.Rev061902

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Development Services
Economic Development Services	Public Services

Action taken by City Council

Date _____ Action _____

- Public Relations Commission – Community Representative (1 Vacancy)
- Public Works Commission (1 Vacancy)
- Public Safety Commission (2 Vacancies)
- Women’s Issues Commission (3 Vacancies)
- Youth Commission (1 Vacancy)
- Veterans Affairs Commission (1 Vacancy)

ACTION: In accordance with Ordinance Nos. 07-1399 and 07-1394, amending certain rules for the conduct of Council/Agency meetings, this item was not addressed.

ITEM NO. (32) CONSIDERATION OF A DRAFT ORDINANCE REGARDING RESIDENCE AND LOITERING RESTRICTIONS FOR SEX OFFENDERS (CITY MANAGER)

This item was heard after Item No. 25.

City Manager Groomes summarized the staff report and recommendation.

RECOMMENDATION for the City Council:

TAKE the following actions:

1. CONSIDER the draft ordinance and PROVIDE comments.
2. REFER the draft ordinance to the Planning Commission for review and recommendation to the City Council.

ACTION: It was moved to Approve the staff recommendation on motion of Dear and seconded by Gipson.

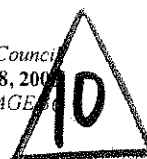
At the request of Council Member Davis-Holmes, City Attorney Wynder briefly summarized the draft ordinance.

The motion was unanimously carried by the following vote:

Ayes: Mayor Dear, Council Member Williams, Council Member Gipson, and Council Member Davis-Holmes
Noes: None
Abstain: None
Absent: Mayor Pro Tem Santarina

ITEM NO. (33) ORDINANCE NO. 08-1398 IMPLEMENTING CERTAIN PROVISIONS OF THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006 (ADMINISTRATIVE SERVICES)

RECOMMENDATION for the City Council:





CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: July 22, 2008

SUBJECT: Workshop to discuss imposing possible residency, time and distance requirements on registered offenders

APPLICANT: City of Carson

REQUEST: Discuss and consider the establishment of an ordinance to regulate the potential for over concentrations of paroled registered sex offenders.

PROPERTIES INVOLVED: City wide.

COMMISSION ACTION

Concurred with staff

Did not concur with staff

Other

Chairman Faletogo moved, seconded by Commissioner Cannon, to continue this workshop to September 9th and to schedule a public hearing on September 23rd regarding this matter. Motion carried.

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
✓		Faletogo - Chairperson	✓		Saenz
✓		Cannon	✓		Verrett
✓		Graber			



I. Introduction

On March 18, 2007, the City Council discussed the issue of residence and loitering restrictions for sex offenders and directed staff to prepare an ordinance to be considered by the Planning Commission.

II. Background

On March 18, 2007, the City Council was advised of the potential for concentrations of paroled registered sex offender in residential neighborhoods where children are present, or in hotels, motels, or inns or other locations where children gather or are cared for or are present as paying guests.

The attached draft ordinance is intended to address the potential threat to public safety posed by "clustering" or "over concentration" of paroled registered sex offenders in or near such locations.

III. Analysis

The draft ordinance would do the following:

1. Prohibit a registered sex offender from "loitering" (as that term is defined by law) in a "child safety zone," defined in the draft ordinance as those areas located within a three hundred (300) foot radius of a child care center, public or private school, park, public library, 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.
2. Prohibit a registered sex offender from permanently or temporarily residing within a Residential Exclusion Zone, defined in the draft ordinance as those areas located within a two thousand (2,000) foot radius of a public or private school, or park in which a sex offender is prohibited from temporarily or permanently residing.
3. Prohibit a registered sex offender from obtaining occupancy in a Dwelling, Single Family Dwelling, Multi-family Dwelling, Duplex Dwelling, Condominium Unit or a Hotel, or Motel already occupied by a Sex Offender, unless those persons are legally related by blood, marriage, or adoption.

Additional information will be discussed by staff at the meeting.

IV. Recommendation

That the Planning Commission:

- **DISCUSS** the draft ordinance; and
- **DIRECT** staff to revise the draft ordinance based on the issues discussed.



V. Exhibits

1. Report to Mayor and City Council dated March 18, 2008
2. Draft ordinance
3. California Penal Code Section 3003.5
4. Article by the California Research Bureau dated August 2006

Prepared by: _____
Sheri Repp Loadsman, Planning Manager

Approved by: _____
Sheri Repp Loadsman, Planning Manager



SUPPLEMENTAL REPORT TO PLANNING COMMISSION
AGENDA ITEM 12A: JULY 22, 2008

WORKSHOP TO DISCUSS RESIDENCY, TIME AND DISTANCE
REQUIREMENTS ON REGISTERED SEX OFFENDERS

Jessica's Law

Proposition 83, commonly known as Jessica's Law, became effective November 8, 2006. It prohibits registered sex offenders from living within 2000 feet of schools and parks. The statute includes a provision that allows municipalities to enact ordinances that further restrict the residency of a registered sexual offender. However, the constitutionality of Jessica's Law is now in question as the California Supreme Court has stayed the revocation of probation for violations of Jessica's Law until it can review the residency restrictions. Jessica's Law is known as Penal Code Section 3003.5 and reads as follows:

- (a) Notwithstanding any other provision of law, when a person is released on parole after having served a term of imprisonment in state prison for any offense for which registration is required pursuant to Section 290, that person may not, during the period of parole, reside in any single family dwelling with any other person also required to register pursuant to Section 290, unless those persons are legally related by blood, marriage, or adoption. For purposes of this section, "single family dwelling" shall not include a residential facility which serves six or fewer persons.
- (b) Notwithstanding any other provision of law, it is unlawful for any person for whom registration is required pursuant to Section 290 to reside within 2000 feet of any public or private school, or park where children regularly gather.
- (c) Nothing in this section shall prohibit municipal jurisdictions from enacting local ordinances that further restrict the residency of any person for whom registration is required pursuant to Section 290.

As noted in Jessica's Law, there are restrictions associated with the number of registered sex offenders that can reside in a single family dwelling. However, the law does not restrict apartment buildings, motels and hotels from having a concentration of registered sexual offenders since each room or unit would be seen as a "single-family dwelling". In addition, the exception for residential facilities serving six or less allows for a concentration of registered sex offenders residing in "sobriety homes" or similar facilities.

Summary of Sex Offender Statistics

Statistical information indicates that the supervised release of sex offenders has only been marginally effective from keeping them from committing another sex offense. Studies have found the following:

- Reported recidivism rates for sex offenders are as high as 45% with the Department of Justice reporting that sex offenders are the least likely to be cured and the most likely to re-offend. It is widely accepted that the pedophiles can only be controlled with medication.
- Of released offenders who committed another crime, 40% perpetrated the new offense within a year or less from their prison discharge, a fact which led the Legislature to adopt legislation for increased supervision of sex offenders in the period immediately following release from incarceration.
- An estimated 24% of those serving time for rape and 19% of those serving time for sexual assault had been on probation or parole at the time of their offense.
- On a given day in the U.S. there are approximately 234,000 offenders convicted of rape or sexual assault that are under the care, custody, or control of corrections agencies. Of this number, nearly 60% or 140,400 of these sex offenders are under conditional supervision in the community.

Carson Map: Location of Sex Offenders

An exhibit to the July 22, 2008 Planning Commission staff report shows the locations of all public and private schools and parks and the 2000 foot restricted area currently required by Jessica's Law. The map clearly shows that the statutory 2000-foot buffer around schools and parks significantly limits properties that can be used to house registered sexual offenders. In addition, the map shows locations of known day care facilities to illustrate the proposed 300 foot buffer that would prohibit loitering by sex offenders if the city adopted the provisions within the draft ordinance.

The areas that are outside of the 2000-foot buffer area would be available to house registered sex offenders on a temporary or permanent basis. Concerns have been raised within many communities that hotels, motels, duplexes, apartments and mobilehome parks could receive a concentration of registered sex offenders as a result of the limited housing locations available under Jessica's Law.

Factors to Consider for Draft Ordinance

The draft ordinance is an initial step in creating regulatory land use standards for temporary and permanent residency of registered sex offenders. Other communities have been evaluating similar means to control for concentration issues. Factors to consider include but are not limited to the following:

- Limitation on the number of registered sex offenders that can reside in a hotels, motels, duplexes and apartments. The current law allows each room or unit to be

considered as a "single family" unit. The draft ordinance could be revised to allow only one registered sex offender (unless related by blood, marriage or adoption). No other registered sex offender would be permitted if a separate guest room, unit or apartment was already occupied by a registered sex offender.

- The draft ordinance currently restricts loitering around day care centers. The draft ordinance could be revised to create a buffer zone in which registered sex offenders are prohibited from residing.
- The draft ordinance does not restrict registered sex offenders from residing in close proximity to other registered sex offenders. The draft ordinance could be revised to create a buffer zone to prohibit any registered sex offender from residing within a specified distance of another registered sex offender.
- The proposed ordinance deals with over concentration of multiple registered sex offenders as a land use issue subject to standards associated with a nonconforming use. If at the time of adoption, certain locations were found to have more than the permitted number of registered sex offenders, a reasonable amortization period could be established. Additional consideration is needed to determine the appropriate amortization period. The draft ordinance could be determined to not be retroactive.
- The proposed ordinance prohibits a registered sex offender from loitering in a "child safety zone", defined in the ordinance as a 300-foot radius from a child care center, public or private school, park, public library, swimming or wading pool, commercial establishment that provides any area in or adjacent to such establishment as a children's play area, school bus stop, or any location that facilitates on the property classes or group activities for children.

Conclusion

There is sufficient information to support the adoption of an ordinance to regulate registered sex offenders within Carson. Such an ordinance would address issues not covered in Jessica's Law by reducing the number of locations within Carson where registered sex offenders are permitted to live and better protecting other places occupied by children. The Planning Commission is requested to consider the scope of such an ordinance and determine the level of local regulations needed. The goal is to prevent a disproportionate number of registered sex offenders from locating within the city or a particular neighborhood.

12. NEW BUSINESS DISCUSSION

- A) **Workshop to discuss imposing possible residency, time and distance requirements on registered offenders**

Applicant's Request:

The applicant, city of Carson, is requesting to discuss and consider the establishment of an ordinance to regulate the potential for over concentrations of paroled, registered sex offenders citywide.

Staff Report and Recommendation:

Planning Manager Repp and Sheriff Sgt. James Morse presented staff report and recommendation to consider the draft ordinance and provide comments. Issues discussed were land use restrictions/regulations, state and local laws affecting sex offenders, loopholes in Megan's Law, anticipated upcoming Supreme Court ruling regarding Jessica's Law, detached residential care facilities and exemptions from regulations, residential concentration of sex offenders, distance requirements and regulation of loitering around child sensitive zones, GPS tracking devices, state parole activities, required sex offender registration.

It was the consensus of the Commission to regulate the number of sex offenders permitted to live at one parcel, considering a limitation by percentage and capping the number on a larger parcel; to adopt separation standards depending on type of development; and with regard to the 2,000-foot rule, to allow a former sex offender who has been continuously living in one residence for many years following that crime to remain in that residence as long that offender has not committed another sexual offense since the effective date of this ruling.

With regard to the sex offenders living at the Carson Plaza Hotel, Sgt. Morse explained that the number of offenders living at this facility has been voluntarily reduced as a result of the Sheriff's collaborative efforts with the state parole board.

In response to Commissioner Graber's inquiry regarding the sex offenders who live at the Harrison Street address, Assistant City Attorney Morse noted for Commissioner Graber that they are not required to attend any rehab classes while living at this address.

It was the consensus of the Commission to have another workshop to further refine this ordinance and address concentration issues.

Planning Commission Decision:

Chairman Faletogo moved, seconded by Commissioner Cannon, to continue this workshop to September 9th and to schedule a public hearing on September 23rd regarding this matter. Motion carried.

13. WRITTEN COMMUNICATIONS None.

14. MANAGER'S REPORT None.



DRAFT ORDINANCE NO. 08-1413

**AN ORDINANCE OF THE CITY OF CARSON,
CALIFORNIA, AMENDING ARTICLE IX, CHAPTER 1, BY
ADDING SECTION 9122.9, SECTION 9138.72, AND
SECTION 9182.31 AND AMENDING ARTICLE IV BY
ADDING CHAPTER 14 TO CARSON MUNICIPAL CODE
REGARDING RESIDENCE AND LOITERING
RESTRICTIONS FOR SEX OFFENDERS**

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, so as to better protect Californians, and, in particular, the children of this State from sex offenders; and

WHEREAS, Proposition 83 enacted subsection (b) of Penal Code § 3003.5 which prohibits any registered sex offender, on parole to the California Department of Corrections and Rehabilitation - Division of Adult Parole Operations, 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 subsection (c) of Penal Code § 3003.5, authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of any registered sex offender, whether or not on parole or probation; and

WHEREAS, the city of Carson desires to maintain its status as an attractive place of residence for families with children; and

WHEREAS, there are numerous registered sex offenders in the city of Carson, and many of these registered sex offenders are on parole; and

WHEREAS, the city is concerned with recent occurrences within the city, and elsewhere in California, where multiple registered sex offenders have been residing in "clusters" in violation of subsection (b) of Penal Code § 3003.5 which prohibits over concentrations of such offenders; and

WHEREAS, local ordinances authorized by subsection (c) of Penal Code § 3003.5 are permitted to regulate the number of registered sex offenders that reside in a residential facility, including those facilities which serve six or fewer persons and are considered a single family dwelling pursuant to Health and Safety Code § 1566.3; and

WHEREAS, because of the potential dangers associated with multiple registered sex offenders living near families with children and places where children frequently

gather, coupled with the fact that subsection (a) of Penal Code § 3003.5 expressly refers to "single family dwellings" as opposed to multiple family dwellings, Chapter IX and Chapter IV of the Municipal Code need to be amended so as to regulate the number and concentration of registered sex offenders permitted to reside in multiple family dwellings; and

WHEREAS, in addition to public and private schools and parks, the city further finds that California State licensed day care facilities are necessarily included as places where children frequently gather; and

WHEREAS, there is currently no State or local ordinance that prohibits registered offenders from loitering near places where children congregate, therefore Chapter IX and Chapter IV also need to be amended to prohibit registered sex offenders from loitering within a 300 foot radius from locations where children gather; and

WHEREAS, in order to foster compliance with the intent of this ordinance, Chapter IX and Chapter IV further need to be amended so as to establish residency regulations for registered sex offenders and the property owners who rent to them; and

WHEREAS, this ordinance is required for the immediate preservation of the public peace, health, and safety, and it shall be the intent of the City Council to construe this ordinance as having a retroactive application;

NOW THEREFORE, the City Council of the city of Carson, California, does hereby ordain as follows:

Section 1. That the City Council, exercising their independent judgment, finds that the proposed code amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15061(b)(3), which exempts projects where it can be positively determined that the activity does not have the potential to cause a significant effect on the environment. The City Council determines that the proposed Code Amendment will not impact the environment.

Section 2. Article IX, Chapter 1, Part 2, Division 2, Section 9122.9 of the Carson Municipal Code entitled "Sex Offender Residency Restrictions" is hereby added to read, in its entirety, as follows:

"Section 9122.9 Sex Offender Residency Restrictions

Permanent and temporary residence for a sex offender is permitted as an accessory use to a mobilehome or dwelling subject to the provisions of CMC Article IV, Chapter 14 and Section 9182.31."



Section 3. Article IX, Chapter 1, Part 3, Division 8, Section 9138.72 of the Carson Municipal Code entitled ""Sex Offender Residency Restrictions within a Mixed-Use or Residential Development" is hereby added to read, in its entirety, as follows:

"Section 9138.72 Sex Offender Residency Restrictions

Permanent and temporary residence for a sex offender is permitted as an accessory use to a mobilehome or dwelling subject to the provisions of CMC Article IV, Chapter 14 and Section 9182.31."

Section 4. Article IX, Chapter 1, Division 2 (Nonconformities), Section 9182.31 of the Carson Municipal Code entitled "Nonconforming Residential Density for Sex Offenders" is hereby added to read, in its entirety, as follows:.

"Section 9182.31 Nonconforming Residential Density for Sex Offenders

A. A lawfully established temporary or permanent residence for a sex offender subject to the provisions of Section 9122.9 and Section 9138.72 shall be permitted to continue indefinitely provided the residential dwelling is not occupied by more than one (1) sex offender, unless those persons are legally related by blood, marriage or adoption.

B. A lawfully established temporary or permanent residence for a sex offender subject to the provisions of Section 9122.9 and Section 9138.72 which becomes nonconforming as a result of two (2) or more sex offenders, not legally related by blood, marriage or adoption, residing in the residential dwelling shall be made conforming within six (6) months from the effective date of the ordinance which results in the nonconformity."

Section 5. Article IV, Chapter 14 of the Carson Municipal Code entitled "Residency and Loitering Restrictions for Sex Offenders" is hereby added to read, in its entirety, as follows:.

"41301 Definitions.

For purposes of this Chapter only, and unless the context clearly requires a different meaning, the words, terms and phrases set forth in this Section are defined as follows:

A. "Dwelling" as defined by Section 9191.202

B. "Dwelling, Single-family" as defined by Section 9191.210.



- C. "Dwelling, Multiple" as defined in Section 9191.026
- D. "Child" or "Children" as defined in Section 9191.086
- E. "Child Care" or "Community Day Care Facility" as defined in Section 9191.090 and Section 9191.126.
- F. "Dwelling, Second Unit" as defined by Section 9191.208.
- G. "Residential Hotel", "Transient Hotel" and "Motel" as defined in Section 9191.298, Section 9191.302 and Section 9191.402.
- H. "Residential Condominium" and "Condominium Unit" as defined in Section 9191.162 and 9191.166.
- I. "Child Safety Zone" shall include those areas located within a three hundred (300) foot radius of a child care center, public or private school, park, public library, 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.
- J. "Loitering" shall mean to delay, linger, remain or wander without any apparent purpose.
- K. "Mobilehome" as defined by Section 9191.394.
- L. "Owner's Authorized Agent" shall mean any person, firm, association, joint venture, joint stock company, partnership, organization, club, company corporation, business trust or the manager, lessee, agent, servant office or employee authorized to act for the owner of a property.
- M. "Public Park or Playground" as defined by Section 9191.430.
- N. "Permanent Residence" shall mean any occupant who, as of a given date, has either at his or her own expense or at the expense of another, obtained the right of occupancy in a residential dwelling for which rent was charged and paid in advance for a minimum of one (1) month.
- O. "Property Owner" shall mean 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 part of such a building or land.

P. "Residential Exclusion Zone" means a zone in which a Sex Offender is prohibited from temporarily or permanently residing, and includes those areas located in the following distances:

1. 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 or park; or
2. three hundred (300) feet of the closest property line of the subject property to the closest property line of a child care center.

Q. "Responsible Party" shall mean the property owner and/or the owner's authorized agent.

R. "Sex Offender" means any person for whom registration is required pursuant to Section 290 of the California Penal Code, regardless of whether that person is on parole or probation.

S. "Temporary Residence" means any occupant who, for a period of less than one (1) month, either at his or her own expense or at the expense of another, obtains the right of occupancy for which rent is charged.

41302 Violation of Child Safety Zone.

No Sex Offender shall loiter in a Child Safety Zone except as follows:

1. Where the Sex Offender is a minor, and he/she is present within three hundred (300) feet of a Child Safety Zone while accompanied by a parent or legal guardian.
2. Where the Sex Offender is present within three hundred (300) feet of a Child Safety Zone only because he/she is accompanying a Related Minor to that site and only for so long as necessary to provide care and/or supervision to the Related Minor. As used herein, Related Minor means a minor to whom the Sex Offender is the legal parent or guardian.
3. 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.

41303 Violation of Residential Exclusion Zone.

No Sex Offender shall permanently or temporarily reside in a Residential Exclusion Zone.

41304 Sex Offender Violation – Dwellings

No Sex Offender shall obtain occupancy in a Mobile Home, a Single Family Dwelling, Second Unit Dwelling, Multiple Dwelling, or a Residential Condominium Unit already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption.

41305 Sex Offender Violation – Multiple Dwellings and Mobilehome Parks – Permanent Resident

No Sex Offender shall be a Permanent or Temporary Resident in a Multiple Dwelling if ten percent (10%) or up to a maximum of 6 units of the total dwelling units within the Multiple Dwelling 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 Multiple Dwelling, without violating the restrictions contained herein, if the Occupied Unit is occupied by another sex offender legally related to the Sex Offender by blood, marriage or adoption.

41306 Sex Offender Violation – Hotel/Motel/Rooms.

No Sex Offender shall obtain occupancy in a guest room of a Hotel, Residential Hotel, or Motel already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption.

41307 Sex Offender Violation – Hotel/Motel/Rooms – Permanent Resident.

No Sex Offender shall be a Permanent or Temporary Resident in a Hotel, Residential Hotel, or Motel if ten percent (10%) or up to a maximum of 6 units of the total dwelling units within the Hotel, Residential Hotel, or Motel 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, Residential Hotel, or Motel without violating the restrictions contained



herein, if the Occupied Unit is occupied by another sex offender legally related to the Sex Offender by blood, marriage or adoption.

41308 Responsible Party Violation – Permanent Residence.

No Responsible Party shall knowingly rent a Mobilehome or Dwelling to more than one (1) Sex Offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption.

41309 Responsible Party Violation – Temporary Residence.

No Responsible Party shall knowingly rent a Mobilehome or Dwelling to more than one (1) Sex Offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption.

41310 Responsible Party Violation – Hotel/Motel/Rooms.

No Responsible Party shall knowingly exceed the number of units occupied by a Sex Offender subject to CMC Section 41307 or rent a guest room in a Hotel, Residential Hotel, or Motel to more than one (1) Sex Offender, unless those persons are legally related by blood, marriage or adoption.

41311 Penalties.

Every person who fails to obey and comply with any provisions of CMC Section 9122.9, CMC Section 9138.72, CMC Section 9182.31 or this Chapter or who violates any such provision or who causes such failure, disobedience or violation, shall be deemed guilty of a misdemeanor and shall be subject to the penalties as set forth in Section 1200 of this Code.

41312 Criminal Penalties Do Not Satisfy Administrative or Civil Actions.

Neither the arrest, prosecution, conviction, imprisonment, or payment of any fine for the violation of CMC Section 9122.9, CMC Section 9138.72, CMC Section 9182.31 or this Chapter shall satisfy or diminish the authority of the city to institute administrative or civil actions seeking enforcement of any or all of the provisions of this Chapter.

41313 Civil Actions.

Any person required to comply with any or all of the provisions of CMC Section 9122.9, CMC Section 9138.72, CMC Section 9182.31 or this Chapter shall be liable in an action filed by the city in any court of



competent jurisdiction in order to enforce such provision and to pay such reasonable costs of the suit as the court may deem appropriate, including any and all attorney fees incurred by the city in the prosecution of said enforcement action.”

Section 6. The Los Angeles 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 city of Carson.

Section 7. The City Attorney is directed to send copies of this ordinance to those Property Owners identified by the Los Angeles County Sheriffs Department who, on the effective date of this ordinance, own Mobilehomes, Single Family Dwellings, Multi-family Apartment Houses, Second Unit Dwellings, Residential Condominiums and/or commercial Hotels, Motels, and/or Inns occupied by more than one Sex Offender.

Section 8. City Attorney is directed to send a copy of this ordinance, on the effective date of this ordinance, to the California Department of Corrections and Rehabilitation, Division of Adult Operations.

Section 9. Notwithstanding any provision of this ordinance to the contrary, any Responsible Party in violation of the provisions of Section 9122.9, Section 9138.72 and CMC Article IV, Chapter 14, prior to the effective date of this ordinance, shall be granted a six (6) month compliance period, commencing on the effective date of this ordinance, to bring their property into conformity with the provisions of Section 9122.9, Section 9138.72 and Section 9182.31.

Section 10. If any section, subsection, sentence, clause, phrase, or portion 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 section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 11. The City Clerk shall certify to the passage of this ordinance and cause it to be posted in three conspicuous places in the city of Carson, and it shall take effect on the thirty-first (31) day after it is approved by the Mayor.



PASSED, APPROVED, and ADOPTED this _____ day of _____, 2008.

Mayor, Jim Dear

ATTEST:

City Clerk, Helen Kawagoe

APPROVED AS TO FORM:

William W. Wynder, City Attorney

