

**CITY OF HAWAIIAN GARDENS
ORDINANCE NO. 531**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS ADDING A NEW CHAPTER 9.90, TO TITLE 9, PUBLIC PEACE, MORALS AND WELFARE TO THE HAWAIIAN GARDENS MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR SEX OFFENDERS.

WHEREAS, the City Council of the City of Hawaiian Gardens ("City") is dedicated to protecting the public health, safety and general welfare of all residents of the community, particularly children; and

WHEREAS, the City Council adopted Resolution No. 064-2006 on July 25, 2006, joining local surrounding communities in expressing concerns and supporting State law relating to the housing of sex offenders and calling for more restrictive laws to be adopted by the State legislature; and

WHEREAS, on November 7, 2006, the voters of the State of California overwhelmingly approved Proposition No. 83, The Sexual Predator Punishment and Control Act, commonly referred to as "**Jessica's Law**", to better protect Californians, especially children against sex offenders; and

WHEREAS, on January 27, 2009, the County of Los Angeles Board of Supervisors unanimously approved to impose additional residential restrictions on sex offenders; and

WHEREAS, the City Council intends to eliminate any potential dangers associated with sex offenders living near families with children and places where children frequently gather including, but not limited to schools, parks, child day care facilities, pre-schools, public libraries and/or various temporary and/or permanent housing units.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City Council of the City of Hawaiian Gardens does HEREBY make the following LEGISLATIVE FINDINGS:

- A. 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 to protect the children of California from sex offenders;
- B. Proposition 83, as codified in subsection (b) of California Penal Code section 3003.5 prohibits any person who is required to register as a sex offender under Penal Code Section 290 from residing within 2,000 feet of any public or private school, or any park where children regularly gather;
- C. Proposition 83, as codified in subsection (c) of California Penal Code Section 3003.5 authorizes local governments to enact ordinances that further restrict the residency of any registered sex offender, whether or not on parole or probation;
- D. Subsection (a) of California Penal Code Section 3003.5, enacted in 1998 prior to Proposition 83 prohibits registered sex offenders who are on parole from residing in a

- "single-family dwelling" with another registered sex offender during the parole period, unless those persons are legally related by blood, marriage, or adoption;
- E. The City Council is concerned with recent occurrences within the City and elsewhere in California where multiple registered sex offenders have been residing together in violation of California Penal Code Section 3003.5;
 - F. By enacting this Ordinance the City Council intends to eliminate any potential conflict of land uses in residential neighborhoods and to reduce the potential dangers associated with multiple registered sex offenders living near families with children and places where children frequently gather. This Ordinance will also regulate the number of registered sex offenders permitted to reside in multiple family dwellings;
 - G. In addition to public and private schools and local parks, the City Council further finds that California State licensed day care facilities, libraries and school bus stop locations are necessarily included as places where children frequently gather and should also be protected from registered sex offenders;
 - H. In order to foster compliance with the intent of this ordinance, Chapter 9.90, also establishes regulations for property owners who rent residential facilities to registered sex offenders;
 - I. Sex Offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon. 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 re-offend, 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.

SECTION 2. Chapter 9.90 of the Hawaiian Gardens Municipal Code, entitled "Sex Offender Residency Restrictions" is adopted to read as follows:

Chapter 9.90
SEX OFFENDER RESIDENCY RESTRICTIONS

Sections:

9.90.010	Definitions
9.90.020	Registered sex offender prohibitions – Child Safety Zone
9.90.030	Registered sex offender prohibitions – Residential Exclusion Zone
9.90.040	Registered sex offender prohibitions – Single-family and Multi-family dwellings/Duplex
9.90.050	Registered sex offender prohibitions – Hotels/Motels/Inns
9.90.060	Responsible party prohibitions – Single-family and Multi-family dwellings/Duplex
9.90.070	Responsible party prohibitions – Hotels/Motels/Inns
9.90.080	Eviction requirements
9.90.090	Penalties - Enforcement
9.90.095	Penalties - Criminal Penalties do not satisfy administrative or civil actions
9.90.100	Offenses constituting nuisances

9.90.010 Definitions

For purposes of this Chapter, the following definitions shall apply:

- A. "Child" or "children" shall mean any person(s) under the age of eighteen (18) years of age.
- B. "Child care center" shall mean any licensed facility of the State of California, Department of Social Services, that provides non-medical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of children on less than a twenty-four (24) hour basis, including, but not limited to, a family day care home, infant center, preschool, extended-day care facility, or school-age child care center.
- C. "Child safety zone" shall include any area located within three hundred (300) feet from the nearest property line of a child care center, public or private school (grades K through 12), park, public library, commercial establishment that provides a child's playground either in or adjacent to the establishment, a location that holds classes or group activities for children and/or any school bus stop.
- D. "Duplex" shall mean a residential structure containing two (2) dwelling units.
- E. "Knowingly" shall mean with knowledge of the existence of the facts in question.
- F. "Hotel/motel/inn" shall mean a commercial establishment that rents guest rooms or suites to the public on a nightly, weekly, or monthly basis, and shall include a motel and inn that operates in such capacity.
- G. "Loiter" shall mean to delay, linger or idle about a child safety zone with the intent to commit a sex offense for which registration is required under California Penal Code Section 290.
- H. "Multi-family dwelling" shall mean a residential structure designed for the permanent residency of two (2) or more individuals, groups of individuals, or families living independently. This definition shall include a duplex, apartment house, and a condominium complex, but does not include a hotel.
- I. "Owner's authorized agent" shall mean any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, limited liability company, corporation, business trust, manager, lessee, servant, officer, or employee, authorized to act for the property owner.
- J. "Park" shall include any areas owned, leased, controlled, maintained, or managed by a public entity which are open to the public where children regularly gather and which provide recreational, cultural, and/or community service activities including, but not limited to, playgrounds, playfields, and athletic courts.
- K. "Permanent resident" shall mean any person who, on a given date, has obtained a legal right to occupy or reside in, or has already, as of that date, occupied or resided in, a single-family or multi-family dwelling or hotel, for more than thirty (30) consecutive days.
- L. "Property owner" shall include the owner of record of real property, as recorded in the Office of the County Registrar-Recorder/County Clerk, as well as any partial owner, joint owner, tenant, tenant-in-common, or joint tenant, of such real property.

- M. "Registered sex offender" shall mean any person who is required to register under section 290 of the California Penal Code, regardless of whether or not that person is on parole or probation.
- N. "Residential exclusion zone" shall mean any area located within two thousand (2,000) feet from the nearest property line of the subject property to the nearest property line of a child day care center/facility, public or private school (grades K through 12), park, or public library.
- O. "Responsible party" shall mean a property owner and/or a property owner's authorized agent.
- P. "Sex offender" shall mean any person for who registration is required pursuant to Section 290 of the California Penal Code, regardless of whether that person is on parole or probation.
- Q. "Single-family dwelling" shall mean one permanent residential dwelling located on a single lot. For purposes of this Chapter, single-family dwelling shall not include any state-licensed residential facility which serves six (6) or fewer persons.
- R. "Temporary resident" shall mean any person who, on a given date, has obtained a legal right to occupy or reside in, or has already, as of that date, occupied or resided in, a single-family or multi-family dwelling or a hotel, for a period of thirty (30) consecutive days or less.

9.90.020 Registered sex offender prohibitions- Child Safety Zone.

A registered sex offender shall be prohibited from loitering in a Child Safety Zone.

9.90.030 Registered sex offender prohibitions - Residential Exclusion Zone.

A registered sex offender shall be prohibited from becoming a permanent or temporary resident in any Residential Exclusion Zone.

9.90.040 Registered sex offender prohibitions - Single-family dwellings and Multi-family dwellings/Duplex.

- A. Same dwelling. A registered sex offender shall be prohibited from renting or otherwise occupying a single-family dwelling or a unit in a multi-family dwelling with another registered sex offender, regardless of the permanent or temporary residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.
- B. Multiple dwellings/Duplex. A registered sex offender shall be prohibited from renting or otherwise occupying a unit in a multi-family dwelling and/or duplex as a permanent resident if there is another unit in that multi-family dwelling that is already rented or otherwise occupied by a registered sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.
- C. Temporary residency. A registered sex offender shall be prohibited from renting or otherwise occupying any single-family dwelling or any unit in a multi-family dwelling/duplex as a temporary resident.

9.90.050 Registered sex offender prohibitions – Hotels/ Motels/Inns.

- A. *Same hotel/motel/inn room.* A registered sex offender shall be prohibited from renting or otherwise occupying the same guest room in a hotel/motel/inn with another registered sex offender, regardless of the permanent or temporary residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.
- B. *Separate hotel/motel/inn rooms.* A registered sex offender shall be prohibited from renting or otherwise occupying a guest room in a hotel/motel/inn as a permanent resident if there is another guest room in that hotel that is already rented or otherwise occupied by a registered sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.

9.90.060 Responsible party prohibition - Single-family and Multi-family dwellings/Duplex.

- A. *Same dwelling.* A responsible party shall be prohibited from knowingly allowing a single-family dwelling or a unit in a multi-family dwelling to be rented or otherwise occupied by more than one registered sex offender, regardless of the permanent or temporary residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.
- B. *Multiple dwellings/Duplex.* A responsible party shall be prohibited from knowingly allowing more than one unit in a multi-family dwelling to be rented or otherwise occupied by a registered sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.
- C. *Temporary residency.* A responsible party shall be prohibited from knowingly allowing a single-family dwelling or any unit in a multi-family dwelling to be rented or otherwise occupied by a registered sex offender as a temporary resident.

9.90.070 Responsible party prohibition- Hotels/Motels/Inns.

- A. *Same hotel/motel/inn rooms.* A responsible party shall be prohibited from knowingly allowing a guest room in a hotel/motel/inn to be rented or otherwise occupied by more than one registered sex offender, regardless of the permanent or temporary residential status of either registered sex offender, unless those persons are legally related by blood, marriage, or adoption.
- B. *Separate hotel/motel/inn rooms.* A responsible party shall be prohibited from knowingly allowing a guest room in a hotel/motel/inn to be rented or otherwise occupied by a registered sex offender as a permanent resident if there is already a registered sex offender renting or otherwise occupying another guest room in that hotel as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.

9.90.080 Eviction requirements.

If, in order to comply with Section 9.90.060 or Section 9.90.070, a responsible party is required to terminate a registered sex offender's tenancy or other occupancy, the responsible party shall comply with all applicable state law procedures and requirements governing the eviction of

tenants of real property. If, in accordance with these procedures and requirements, a court determines that such termination is improper, the responsible party shall not be in violation of this Chapter by allowing the registered sex offender to remain as a tenant or other occupant.

9.90.090 Penalties – Enforcement.

Notwithstanding any other penalty provide by the City's Municipal Code or otherwise by law, any person who violates this Chapter 9.90 shall be guilty of a misdemeanor and, in addition, the City may enforce the violation by means of a civil enforcement process through a restraining order, a preliminary or permanent injunction, or by any other means available under law or in equity..

9.90.095 Penalties - Criminal Penalties do not satisfy administrative or civil actions.

Neither the arrest, prosecution, conviction, imprisonment, nor payment of any fine for a violation of 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 section.

9.90.100 Offenses constituting nuisances.

Any duplex, hotel, motel, inn, multi-family dwelling/duplex, or single-family dwelling operated or maintained in a manner inconsistent with the occupancy requirements of this Chapter, California Penal Code Section 3003.5, is declared to be unlawful and is defined as and declared to be public nuisance that is injurious to the public, health, safety and welfare.

9.90.105 Nuisances; recovery of abatement expenses.

- A. In any civil action or proceeding, administrative proceeding, or special proceeding, including, but not limited to abate a public nuisance, the prevailing party will be entitled to recovery of all costs, attorney's fees and expenses, provided that attorney's fees will only be available in those action or proceedings in which the City has provided notice at the commencement of such action or proceeding that it intends to seek and recover its own attorney's fee. In no action or proceeding will an award of attorney's fees exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.
- B. Moneys due the City pursuant to this Chapter may be recovered in an appropriate civil action. Alternatively, such liability may be enforced by special assessment proceedings against the parcel of land upon which the nuisance existed, which proceedings must be conducted in a manner substantially similar to the proceedings prescribed by Section 18.100.180 et seq., of this Code relating to the assessment for abatement of property nuisances.

9.90.200 Applicability

Notwithstanding anything to the contrary contained herein, this Chapter shall apply to all Sex offenders who locate within the City after the effective date of this Ordinance, and to all Responsible Parties who allow occupancy by a Sex offender within the City after the

effective date of this Ordinance. Nothing in this Chapter is intended to limit the obligations of a Sex offender to comply with the requirements of state law, including, but not limited to Penal Code Section 3003.5.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause, phase, or portion of this Ordinance is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Hawaiian Gardens 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 section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 4. Effective date. This Ordinance shall take full force and effect thirty (30) days after its adoption.

SECTION 5. The Mayor or presiding officer of the City of Hawaiian Gardens City Council is hereby authorized to affix her signature to this Ordinance signifying its adoption by the City Council of the City of Hawaiian Gardens.

SECTION 6. The City Clerk, or her duly appointed Deputy, shall attest and certify as to the adoption of this Ordinance and shall cause this Ordinance to be published and/or posted within fifteen (15) days after its adoption as required by law.

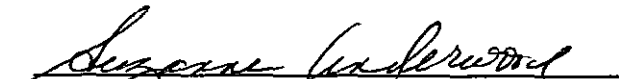
PASSED, APPROVED AND ADOPTED by the City Council of the City of Hawaiian Gardens on this 25th day of August, 2009.

CITY OF HAWAIIAN GARDENS



MICHAEL GOMEZ
MAYOR

ATTEST:



SUZANNE UNDERWOOD
CITY CLERK

APPROVED AS TO FORM:



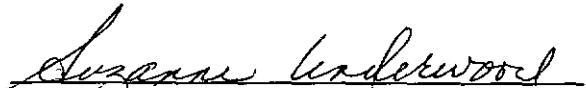
JOHN E. CAVANAUGH
CITY ATTORNEY

**CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE
CERTIFICATION**

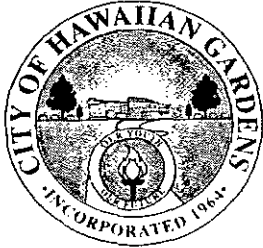
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Suzanne Underwood, City Clerk of the City of Hawaiian Gardens, do hereby certify that **Ordinance No. 531**, was duly and regularly introduced and placed upon its first reading at a Regular meeting of the City Council on **AUGUST 11, 2009**, and that thereafter, said Ordinance was duly adopted and passed at a Regular meeting of the City Council on this **25th day of AUGUST 2009**, by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: SCHULTZE, OYAMA-CANADA HECKERMAN, FARFAN, GOMEZ
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE



SUZANNE UNDERWOOD
CITY CLERK/RECORDS MANAGER



CITY OF HAWAIIAN GARDENS CITY COUNCIL STAFF REPORT

Agenda Item No.: B-2

Meeting Date: 8/11/2009

City Administrator: *[Signature]*

CITY OF HAWAIIAN GARDENS
ACTION:

☒ Approved
☐ Denied
☐ Amended
☐ Receive & File
☐ Other

VOTE: *1st Reading*
DATE: *8-0-1*
8/11/2009

TO: Honorable Mayor and Members of the City Council

THRU: *[Signature]* Ernesto Marquez, City Administrator *[Signature]*

FROM: Sue Underwood, City Clerk/Records Manager
Lucie Colombo, Asst. City Clerk/Asst. Records Manager

DATE: August 4, 2009

SUBJECT: **ORDINANCE NO. 531 – INTRODUCTION AND FIRST READING**
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS ADDING A NEW CHAPTER 9.90, TO TITLE 9, PUBLIC PEACE, MORALS AND WELFARE TO THE HAWAIIAN GARDENS MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR SEX OFFENDERS.

SUMMARY

The attached proposed Ordinance is presented to the City Council for review. The County of Los Angeles adopted a law that imposed additional residential restrictions on sex offenders on January 27, 2009, and requested that the City's in Los Angeles County adopted the same or similar restrictive laws. Local surrounding cities have adopted similar ordinances, such as our neighboring City of Long Beach.

The City Attorney's Office has reviewed and approved this ordinance as presented.

FISCAL IMPACT

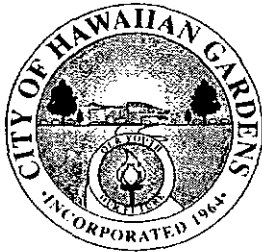
There is no fiscal impact as a direct result of this ordinance.

RECOMMENDATION

Staff respectfully recommends that the City Council waive further reading, introduce for first reading and read by title only, Ordinance No. 531. City Council to the City Attorney's Office to prepare a summary of Ordinance No. 531.

ATTACHMENTS

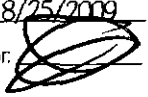
Proposed Ordinance No. 531.



CITY OF HAWAIIAN GARDENS CITY COUNCIL STAFF REPORT

Agenda Item No.: B-2

Meeting Date: 8/25/2009

City Administrator: 

CITY OF HAWAIIAN GARDENS
ACTION:

☒ Approved
☐ Denied
☐ Amended
☐ Receive & File
☐ Other

VOTE: 5-0

DATE: 8/25/2009

TO: Honorable Mayor and Members of the City Council

THRU: Ernesto Marquez, City Administrator

FROM: Sue Underwood, City Clerk/Records Manager
Lucie Colombo, Asst. City Clerk/Asst. Records Manager

DATE: August 4, 2009

SUBJECT: **ORDINANCE NO. 531 – SECOND READING AND ADOPTION
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN
GARDENS ADDING A NEW CHAPTER 9.90, TO TITLE 9, PUBLIC
PEACE, MORALS AND WELFARE TO THE HAWAIIAN GARDENS
MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR
SEX OFFENDERS.**

SUMMARY

The attached proposed Ordinance was presented to the City Council for review, introduction and first reading on July 28, 2009. It is now being presented for second reading and adoption. The County of Los Angeles adopted a law that imposed additional residential restrictions on sex offenders on January 27, 2009, and requested that the City's in Los Angeles County adopted the same or similar restrictive laws. Local surrounding cities have adopted similar ordinances, such as our neighboring City of Long Beach.

The City Attorney's Office has reviewed and approved this ordinance as presented.

FISCAL IMPACT

There is no fiscal impact as a direct result of this ordinance.

RECOMMENDATION

Staff respectfully recommends that the City Council waive further reading, conduct second reading, read by title only, and adopt Ordinance No. 531.

ATTACHMENTS

Proposed Ordinance No. 531.