

ORDINANCE NO. 577

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, AMENDING CHAPTER 9.90 OF THE HAWAIIAN GARDENS MUNICIPAL CODE RELATING TO SEX OFFENDER RESIDENCY RESTRICTIONS

WHEREAS, on November 7, 2006, California voters overwhelmingly approved Proposition 83, the "Sexual Predator Punishment and Control Act" commonly known as "Jessica's Law," which was intended to better protect the State's children from sex offenders;

WHEREAS, among other things, Jessica's Law increased the penalties for registered sex offenders, broadened the definition of certain sexual offenses, eliminated good time credits for early release of certain offenders, and prohibited registered sex offenders on parole from residing within 2,000 feet of any school or park where children congregate;

WHEREAS, Jessica's Law empowered cities to enact regulations that were more stringent than the statewide standard, and countless cities across California elected to do so, including the City of Hawaiian Gardens ("City") which, in 2009, adopted Ordinance No. 531, adding Chapter 9.90 – "Sex Offender Residency Restrictions" – to the Hawaiian Gardens Municipal Code ("Code");

WHEREAS, in general, Chapter 9.90 prohibits registered sex offenders from becoming a permanent or temporary resident within 2,000 feet of a child day care center/facility, public or private school (grades K through 12), park, or public library, and additionally prohibits registered sex offenders from residing within the same dwelling unit, hotel, motel, or inn as another registered sex offender;

WHEREAS, in 2015, the California Supreme Court invalidated an ordinance similar to Chapter 9.90 on grounds that blanket enforcement of Jessica Law's residency regulations is unconstitutional, with the Court reasoning that blanket enforcement of residency restrictions severely restricts the ability for offenders to find compliant housing, resulting in homelessness and difficulties with supervising and enforcing parole conditions;

WHEREAS, in December 2017, a federal district court ruled that local ordinances regulating registered sex offenders may only be enforced against individuals on parole;

WHEREAS, following this line of cases, dozens of lawsuits have been filed challenging the constitutionality of cities' sex offender regulations, and such a lawsuit was filed on January 10, 2018, against the City challenging Chapter 9.90;

WHEREAS, in light of the above-referenced case law invalidating various provisions of Jessica's Law and Chapter 9.90, it is necessary and appropriate for the City to adopt an ordinance amending Chapter 9.90 to ensure the same is consistent with applicable state and federal law; and

WHEREAS, all legal prerequisites to the City Council's adoption of this ordinance have been duly performed.

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

SECTION 1. Based upon the matters presented to the City Council in connection with its consideration of this Ordinance, the City Council finds and declares that the foregoing recitals are true and correct, and are hereby incorporated as substantive findings into this Ordinance.

SECTION 2. Chapter 9.90 of the Hawaiian Gardens Municipal Code, "Sex Offender Residency Restrictions," is hereby repealed in its entirety and replaced with the following:

Chapter 9.90 SEX OFFENDER RESIDENCY RESTRICTIONS

9.90.010 Incorporation of Applicable Laws and Regulations

The City shall enforce, and all persons shall comply with, all valid state and federal laws and regulations pertaining to the regulation of registered sex offenders, including but not limited to all enforceable provisions of the Sexual Predator Punishment and Control Act, also known as Jessica's Law.

SECTION 3. This Ordinance is exempt from the California Environmental Quality Act ("CEQA"), in that this Ordinance does not constitute a "project" under CEQA and is exempt pursuant to CEQA Guidelines section 15378(b)(4), and further there is no likelihood of this Ordinance resulting in a significant negative impact on the environment, and is therefore also exempt from CEQA pursuant to CEQA Guidelines section 15060(c)(2).


SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held out 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, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof, be declared invalid or unconstitutional.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15) days after passage and adoption as required by law, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and, within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of City Clerk.

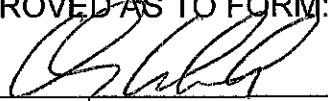
PASSED, APPROVED AND ADOPTED by the City Council of the City of Hawaiian Gardens this 10th day of April 2018.


REYNALDO RODRIGUEZ, MAYOR

ATTEST:


SUZANNE UNDERWOOD, CITY CLERK

APPROVED AS TO FORM:



CHRISTOPHER CARDINALE,
ASSISTANT 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. 577**, was duly and regularly introduced and placed upon its first reading at a Regular meeting of the City Council on the **27TH day of MARCH 2018**, and that thereafter, said Ordinance was duly adopted and passed at a Regular meeting of the City Council on this **10TH day of APRIL 2018** by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: RODRIGUEZ, BRUCE, TRIMBLE, RIOS
NOES: NONE
ABSENT: MARAVILLA
ABSTAIN: NONE


SUZANNE UNDERWOOD
CITY CLERK/RECORDS MANAGER

PROOF OF PUBLICATION

(2015.5 C.C.P.)

Los Cerritos Community Newspaper Group

13017 Artesia Blvd., Suite C-102

Cerritos CA 90703

(562) 407-3873

County Clerk's Filing Stamp

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the principal clerk of the printer of the Los Cerritos Community News, a newspaper of general circulation, printed and published in the County of Los Angeles, and have been adjudged a newspaper of the Superior Court of the County of California, under the Case Number V500586.

annexed is a printed copy (nonpareil), has been published in the issue of said newspaper on the following date:

3/30/18

I certify (or declare) under the foregoing is true and correct.
DATED AT CERRITOS, CALIFORNIA
This 30th day of MARCH

Signature

Brian

Los Cerritos Community Newspaper Group
13047 Artesia Blvd. Suite C-102, Cerritos, CA 90703
562-407-3873

LCCN FORM 82180 PROOF

Proof of Publication of

MARCH 30, 2018

**SUMMARY OF ORDINANCE NO. 577 OF THE CITY OF HAWAIIAN GARDENS,
CALIFORNIA AMENDING TITLE 9, CHAPTER 9.90 OF THE HAWAIIAN GARDENS
MUNICIPAL CODE RELATING TO REGISTERED SEX OFFENDER
RESIDENCY RESTRICTIONS**

Pursuant to Government Code Section 36933 (c), the following constitutes a summary of Ordinance No. 577, introduced by the Hawaiian Gardens City Council on March 27, 2018, and proposed to be adopted on April 10, 2018, at its meeting held in the City Council Chambers, 21815 Pioneer Boulevard, Hawaiian Garden, CA 90716.

The purpose of Ordinance No. 577 is to bring the Municipal Code into compliance with recent court decisions addressing the enforceability of registered sex offender residency restrictions, and specifically the decisions holding that blanket enforcement of "Jessica's Law" against registered sex offenders is unconstitutional.

Ordinance No. 577 as introduced would enact the following changes to the Hawaiian Gardens Municipal Code if approved:

- The repeal of the Chapter 9.90 in its entirety, and the enactment of an ordinance that incorporates by reference those provisions of Jessica's Law that remain enforceable, as the same may be amended from time to time.

A copy of the full text of the Ordinance as introduced is posted and available for review in the City Clerk's Office at 21815 Pioneer Boulevard, Hawaiian Garden, CA 90716. If this Ordinance is approved by the City Council, it will become in full force and effect thirty (30) days after City Council approval, and thereafter the Ordinance will be published and posted as required by law.

For additional information, contact the City at (562) 420-2641.

Suzanne Underwood
City Clerk

Published at Los Cerritos Community News 3/30/18

PROOF OF PUBLICATION

(2015.5 C.C.P.)

**Los Cerritos Community Newspaper Group
13017 Artesia Blvd., Suite C-102
Cerritos CA 90703
(562) 407-3873**

County Clerk's Filing Stamp

**STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES**

I am a citizen of the United States
County aforesaid; I am over the age of 18
and not a party to or interested in
matter.

I am the principal clerk of the print
Los Cerritos Community News, a newspaper
of circulation, printed and published one time
per week for the County of Los Angeles, and was
previously adjudged a newspaper of general
circulation by the Superior Court of the County
of California, under the date of See Case
Number V5005861 that the newspaper
annexed is a printed copy (set in type
nonpareil), has been published in each
issue of said newspaper and not
thereof on the following dates, to wit:

4/13/18

I certify (or declare) under penalty
of perjury that the foregoing is true and correct.

DATED AT CERRITOS, CALIFORNIA

THIS 13th DAY OF APRIL 2018

Signature

B

Brian Hews

Los Cerritos Community
13047 Artesia Blvd. Suite C-102, Cerritos
562-407-3873
LCCN FORM 82180 P

**SUMMARY OF ORDINANCE NO. 577 OF THE CITY OF HAWAIIAN GARDENS, CALIFORNIA
AMENDING TITLE 9, CHAPTER 9.90 OF THE HAWAIIAN GARDENS MUNICIPAL CODE
RELATING TO REGISTERED SEX OFFENDER
RESIDENCY RESTRICTIONS**

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The purpose of Ordinance No. 577 is to bring the Municipal Code into compliance with recent court
decisions addressing the enforceability of registered sex offender residency restrictions, and specifi-
cally the decisions holding that blanket enforcement of "Jessica's Law" against registered sex offend-
ers is unconstitutional.

The City Council has determined that the following amendments to the Hawaiian Gardens Municipal
Code are necessary and appropriate:

- The repeal of the Chapter 9.90 in its entirety, and the enactment of an ordinance that
incorporates by reference those provisions of Jessica's Law that remain enforceable, as the
same may be amended from time to time.

A certified copy of the full text of Ordinance is posted and available for review in the City Clerk's Of-
fice at 21815 Pioneer Boulevard, Hawaiian Gardens, CA 90716. This Ordinance shall be in full force
and effective thirty (30) days after its adoption and shall be published and posted as required by law.
This ordinance was introduced by the City Council of the City of Hawaiian Gardens on March 27,
2018 and adopted on April 10, 2018, by the following roll call vote:

AYES:	Rodriguez, Bruce, Rios, Trimble
NOES:	None
ABSENT:	Maravilla
ABSTAIN:	None

/s/
Suzanne Underwood,
City Clerk

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

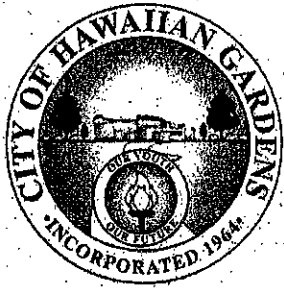
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Suzanne Underwood, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 577, was duly and regularly introduced and placed upon its first reading at a Regular meeting of the City Council on the 27TH day of MARCH 2018, and that thereafter, said Ordinance was duly adopted and passed at a Regular meeting of the City Council on this 10TH day of APRIL 2018 by the following votes as the same appears on file and of record in the Office of the City Clerk:

AYES:	RODRIGUEZ, BRUCE, TRIMBLE, RIOS
NOES:	NONE
ABSENT:	MARAVILLA
ABSTAIN:	NONE

/s/
SUZANNE UNDERWOOD
CITY CLERK/RECORDS MANAGER

Published at Los Cerritos Community Newspaper 4/13/18



**CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT**

Agenda Item No.: C-1

City Manager: 48

CITY OF HAWAIIAN GARDENS

ACTION:

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

DATE: March 27, 2018

TO: Honorable Mayor and City Councilmembers

FROM: Arnold M. Alvarez-Glasman, City Attorney

VOTE:

DATE:

BY: Christopher G. Cardinale, Assistant City Attorney

**SUBJECT: WAIVE FIRST READING AND INTRODUCE ORDINANCE NO. 577
AMENDING CHAPTER 9.90 OF THE HAWAIIAN GARDENS
MUNICIPAL CODE RELATING TO SEX OFFENDER RESIDENCY
RESTRICTIONS**

SUMMARY

The City Council will consider introducing an ordinance amending Chapter 9.90 of the Hawaiian Gardens Municipal Code ("Code") pertaining to residency restrictions for registered sex offenders. Similar regulations have been invalidated by the California Supreme Court, and the City has been served with a lawsuit challenging the constitutionality of Chapter 9.90. Staff recommends the City Council adopt the attached ordinance to resolve the litigation and avoid additional liabilities moving forward.

DISCUSSION

A. Jessica's Law and Local Ordinances

On November 7, 2006, California voters overwhelmingly approved Proposition 83, the "Sexual Predator Punishment and Control Act" commonly known as "Jessica's Law." Jessica's Law was intended to better protect the State's children from sex offenders and, among other things: increased the penalties for registered sex offenders; broadened the definition of certain sexual offenses; eliminated good time credits for early release of certain offenders; and, as relevant here, prohibited registered sex offenders on parole from residing within 2,000 feet of any school or park where children congregate.

Jessica's Law empowered cities to enact regulations that were more stringent than the statewide standard. Countless cities across California did so, including the City of Hawaiian Gardens. Specifically in 2009, the City Council adopted Ordinance No. 531, adding Chapter 9.90 – "Sex Offender Residency Restrictions" – to the Hawaiian Gardens Municipal Code ("Code").

Among other things, Chapter 9.90 prohibits registered sex offenders from becoming a permanent or temporary resident within 2,000 feet of a child day care center/facility, public or private school (grades K through 12), park, or public library. Chapter 9.90 additionally prohibits registered sex offenders from residing within the same dwelling unit, hotel, motel, or inn as another registered sex offender.

B. Supreme Court's Invalidation of Residency Restrictions

In 2015, the California Supreme Court invalidated an ordinance similar to Chapter 9.90 on grounds that blanket enforcement of Jessica Law's residency regulations is unconstitutional. The Court reasoned that blanket enforcement of residency restrictions severely restricts the ability for offenders to find compliant housing, resulting in homelessness and difficulties with supervising and enforcing parole conditions. More recently in December 2017, a federal district court ruled that local ordinances regulating registered sex offenders may only be enforced against individuals on parole.

Following these cases, dozens of lawsuits have been filed challenging the constitutionality of cities' sex offender regulations. Given the Supreme Court's ruling, these communities have elected to repeal their regulations to avoid incurring damages and attorneys' fees. Similarly, the California Department of Corrections and Rehabilitation has ceased enforcing Jessica Law on a "blanket basis," and now will do so on a case-by-case basis for individuals on parole, depending on the nature of an individual's criminal history.

On January 10, 2018, a lawsuit was filed by in federal court against the City to challenge Chapter 9.90. The lawsuit alleges the City's sex offender residency restrictions are preempted by state law and unconstitutional. The attorney representing the plaintiff has filed identical lawsuits against cities throughout California.

C. Proposed Amendment to Chapter 9.90

In response to the lawsuit, the City Attorney's Office recommends the City Council repeal its current regulations in Chapter 9.90, and – in their place – incorporate by reference the provisions of Jessica's Law that remain enforceable. This would provide the City with a local mechanism for enforcing Jessica's Law, while protecting the City against further litigation. A proposed code amendment is attached for the City Council's consideration.

If the City moves forward with approving the ordinance, the City Attorney's Office will work expeditiously to resolve the pending litigation matter.

ENVIRONMENTAL REVIEW

This action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines, as it can be seen with certainty that the ordinance will not result in direct or reasonable foreseeable indirect physical change in the environment.

RECOMMENDATION

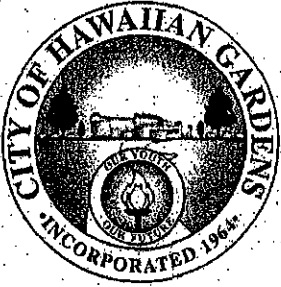
It is recommended that the City Council wave first reading, introduce the following ordinance, and schedule second reading thereof for the next regular meeting of the City Council: ORDINANCE NO.577 AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, AMENDING CHAPTER 9.90 OF THE HAWAIIAN GARDENS MUNICIPAL CODE RELATING TO SEX OFFENDER RESIDENCY RESTRICTIONS

FISCAL IMPACT

None, though declining to amend Chapter 9.90 may result in the City incurring damages and attorneys' fees in the pending litigation matter.

ATTACHMENTS

Exhibit A - Draft Ordinance No. 577



**CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT**

Agenda Item No.: C-2

City Manager: AV

CITY OF HAWAIIAN GARDENS

ACTION:

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

VOTE:

DATE:

2nd reading
Memo to Council
4-0-1
4/10/2018

DATE: April 10, 2018

TO: Honorable Mayor and City Councilmembers

FROM: Arnold M. Alvarez-Glasman, City Attorney

BY: Christopher G. Cardinale, Assistant City Attorney

**SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 577 -
AMENDING CHAPTER 9.90 OF THE HAWAIIAN GARDENS
MUNICIPAL CODE RELATING TO SEX OFFENDER RESIDENCY
RESTRICTIONS**

SUMMARY

Ordinance 577 was introduced for first reading by the City Council at its meeting on March 27, 2018. The Ordinance amends Chapter 9.90 of the Hawaiian Gardens Municipal Code ("Code") pertaining to residency restrictions for registered sex offenders. Similar regulations have been invalidated by the California Supreme Court, and the City has been served with a lawsuit challenging the constitutionality of Chapter 9.90. Staff recommends the City Council waive full reading and adopt Ordinance 577.

DISCUSSION

A. Jessica's Law and Local Ordinances

On November 7, 2006, California voters overwhelmingly approved Proposition 83, the "Sexual Predator Punishment and Control Act" commonly known as "Jessica's Law." Jessica's Law was intended to better protect the State's children from sex offenders and, among other things: increased the penalties for registered sex offenders; broadened the definition of certain sexual offenses; eliminated good time credits for early release of certain offenders; and, as relevant here, prohibited registered sex offenders on parole from residing within 2,000 feet of any school or park where children congregate.

Jessica's Law empowered cities to enact regulations that were more stringent than the statewide standard. Countless cities across California did so, including the City of Hawaiian Gardens. Specifically in 2009, the City Council adopted Ordinance No. 531, adding Chapter 9.90 - "Sex Offender Residency Restrictions" - to the Hawaiian Gardens Municipal Code ("Code").

Among other things, Chapter 9.90 prohibits registered sex offenders from becoming a permanent or temporary resident within 2,000 feet of a child day care center/facility, public or private school (grades K through 12), park, or public library. Chapter 9.90 additionally prohibits registered sex offenders from residing within the same dwelling unit, hotel, motel, or inn as another registered sex offender.

B. Supreme Court's Invalidation of Residency Restrictions

In 2015, the California Supreme Court invalidated an ordinance similar to Chapter 9.90 on grounds that blanket enforcement of Jessica Law's residency regulations is unconstitutional. The Court reasoned that blanket enforcement of residency restrictions severely restricts the ability for offenders to find compliant housing, resulting in homelessness and difficulties with supervising and enforcing parole conditions. More recently in December 2017, a federal district court ruled that local ordinances regulating registered sex offenders may only be enforced against individuals on parole.

Following these cases, dozens of lawsuits have been filed challenging the constitutionality of cities' sex offender regulations. Given the Supreme Court's ruling, these communities have elected to repeal their regulations to avoid incurring damages and attorneys' fees. Similarly, the California Department of Corrections and Rehabilitation has ceased enforcing Jessica Law on a "blanket basis," and now will do so on a case-by-case basis for individuals on parole, depending on the nature of an individual's criminal history.

On January 10, 2018, a lawsuit was filed in federal court against the City to challenge Chapter 9.90. The lawsuit alleges the City's sex offender residency restrictions are preempted by state law and unconstitutional. The attorney representing the plaintiff has filed identical lawsuits against cities throughout California.

C. Proposed Amendment to Chapter 9.90

In response to the lawsuit, the City Attorney's Office recommends the City Council repeal its current regulations in Chapter 9.90, and – in their place – incorporate by reference the provisions of Jessica's Law that remain enforceable. This would provide the City with a local mechanism for enforcing Jessica's Law, while protecting the City against further litigation. A proposed code amendment is attached for the City Council's consideration.

If the City moves forward with approving the ordinance, the City Attorney's Office will work expeditiously to resolve the pending litigation matter.

ENVIRONMENTAL REVIEW

This action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines, as it can be seen with certainty that the ordinance will not result in direct or reasonable foreseeable indirect physical change in the environment.

RECOMMENDATION

It is recommended that the City Council wave full reading and adopt the following ordinance: ORDINANCE NO. 577 - AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, AMENDING CHAPTER 9.90 OF THE HAWAIIAN GARDENS MUNICIPAL CODE RELATING TO SEX OFFENDER RESIDENCY RESTRICTIONS

FISCAL IMPACT

None, though declining to amend Chapter 9.90 may result in the City incurring damages and attorneys' fees in the pending litigation matter.

ATTACHMENTS

Exhibit A – Ordinance No. 577