

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHAPTER 9.80 OF THE CHULA VISTA MUNICIPAL CODE
RELATING TO SEX OFFENDER RESIDENCY
RESTRICTIONS

WHEREAS, the City of Chula Vista adopted Chula Vista Municipal Code (“CVMC”) Chapter 9.80 in March 2006 to impose local residency restrictions on sex offenders in the interest of public safety;

WHEREAS, CVMC Section 9.80.020 provides that a “Person” who has committed a sexual offense against or involving a minor that has been required to register as a sex offender pursuant to Penal Code Section 290 is prohibited from residing within 500 feet of a school (grades K through 8) or a park;

WHEREAS, recent rulings by the California Supreme Court and the California Court of Appeals for the Fourth District (which covers San Diego County) have held that residency restrictions determined on an individualized probation or parole basis are permitted but that “blanket” sex offender residency restrictions similar to those provided in Chapter 9.80 of the CVMC are unconstitutional;

WHEREAS, in light of these court decisions, it is necessary and appropriate for the City to modify Chapter 9.80 to remove the blanket residency restrictions for sex offenders contained therein;

WHEREAS, existing California law requiring sex offenders to register with local law enforcement agencies will continue in effect; and

WHEREAS, state or county agencies will continue to have the authority to place further individualized restrictions and requirements on sex offenders who are on parole or probation, including GPS monitoring and residency restrictions when appropriate in the interest of public safety;

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I.

Chapter 9.80 of the Chula Vista Municipal Code is hereby amended to read as follows:

SEX OFFENDER REGISTRATION AND RESTRICTIONS

Sections:

9.80.010 Findings and Declaration.

9.80.020 State Law Registration Requirements and Individualized Conditions.

9.80.030 Police Department Cooperation.

9.80.010 Findings and Declaration.

The City Council finds and declares that it is in the best interest of the City to monitor and, whenever possible, cooperate with other local and state agencies to manage the conduct of convicted sex offenders in the community.

9.80.020 State Law Registration Requirements and Individualized Conditions.

Penal Code section 290 requires sex offenders to register their residency with local law enforcement agencies. In addition, sex offenders who are on parole or probation with the state or county are subject to further restrictions and conditions, including residency restrictions and GPS monitoring as determined on a case-by-case basis. In making case-by-case determinations, state law currently implements a “Containment Model” approach to sex offender management. The Containment Model involves collaboration among a team of professionals and the use of research-based, state-authorized risk assessment tools to evaluate the risk of sexual re-offense and assist in developing appropriate individualized parole or probation conditions. These practices may change subject to changes in state or local law.

9.80.030 Police Department Cooperation.

The Chula Vista Police Department shall actively cooperate with other state and local agencies to assist in the effective enforcement and management of sex offenders, particularly with regard to sex offender registration requirements. The Police Department is further directed, when necessary, to report any enforcement issues to the City Manager or City Council.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

[INSERT DEPARTMENT HEAD NAME]
[INSERT DEPARTMENT HEAD TITLE]

Glen R. Googins
City Attorney