

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE AMENDING CHAPTER 9.10 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 Commerce (“City”) which, in 2014, adopted Ordinance No. 664, adding Chapter 9.10, “Sex Offender Residency Restrictions,” to the Commerce Municipal Code (“CMC”);

WHEREAS, in general, Chapter 9.10 prohibits registered sex offenders from becoming a permanent or temporary resident within 2,000 feet of a child care center, public or private school (grades K through 12), park, or public library, and additionally prohibits registered sex offenders from residing within the same single-family dwelling unit, or a unit in a multiple-family dwelling if another sex offender is renting or otherwise occupying another unit, unless those person are legally related;

WHEREAS, in 2015, in the case *In re Taylor* (2015) 60 Cal. 4th 1019, the California Supreme Court invalidated an ordinance similar to Chapter 9.10 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 April 22, 2019, against the City challenging Chapter 9.10;

WHEREAS, in light of the above-referenced case law invalidating various provisions of Jessica’s Law and Chapter 9.10, it is necessary and appropriate for the City to adopt an ordinance amending Chapter 9.10 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.

THE CITY COUNCIL OF THE CITY OF COMMERCE DOES HEREBY 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 9.10 of the Commerce Municipal Code, “Sex Offender Residency Restrictions,” is hereby repealed in its entirety and replaced with the following:

Chapter 9.10 SEX OFFENDER RESIDENCY RESTRICTIONS

9.10.010 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.

Introduced and read at a regular meeting of the City Council of the City of Commerce the 20th day of August, 2019, and adopted at a regular meeting thereof held on the _____ day of _____, 2019.

AYES:

NOES:

ABSENT:

ABSTAIN:

John Soria
Mayor

ATTEST:

Lena Shumway
City Clerk