

ORDINANCE NO. 2281

**AN URGENCY ORDINANCE OF THE CITY OF WEST COVINA,
CALIFORNIA, ADDING SECTION 15-19 (SEX OFFENDER
RESIDENCY RESTRICTIONS) OF ARTICLE I (GENERAL) OF
CHAPTER 15 (MISCELLANEOUS PROVISIONS RELATING TO
PUBLIC HEALTH AND SAFETY), RELATING TO CERTAIN 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, to better protect Californians, and, in particular, the children of this State, from sex offenders; and
- WHEREAS, before the passage of Proposition 83, Penal Code Section 3003.5(a) provided that a person released on parole after having served a term of imprisonment in state prison for any offense for which registration is required pursuant to Penal Code Section 290, 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 Penal Code Section 3003.5(a), "single family dwelling" does not include a residential facility which serves six or fewer individuals; and
- WHEREAS, Proposition 83 enacted Penal Code Section 3003.5(b), which prohibits any sex offender who is required to register pursuant to Penal Code Section 290 from residing within 2,000 linear feet of any public or private school, or any park where children regularly gather; and
- WHEREAS, Proposition 83, as codified in Penal Code Section 3003.5(c), specifically authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of any sex offender who is required to register pursuant to Penal Code Section 290, beyond what is set forth therein; and
- WHEREAS, local ordinances authorized by Penal Code Section 3003.5(c) are permitted to regulate the number of registered sex offenders that reside in a residential facility, including those facilities that serve six or fewer persons, commonly referred to as group homes and sober living facilities, which are considered a single-family dwelling pursuant to Health and Safety Code Section 1566.3; and
- WHEREAS, many families with children reside in the City of West Covina; 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 Penal Code Section 3003.5(b); and

WHEREAS, the addition of Section 15-19 to the West Covina Municipal Code is intended to reduce the potential dangers associated with multiple child sex offenders living near families with children and places where children regularly gather; and

WHEREAS, Article XI, Section 7 of the California Constitution authorizes the City to enact and enforce ordinances that regulate conditions which may be public nuisances or health hazards, or that promote social, economic or aesthetic considerations; and

WHEREAS, California Government Code Section 38773.5 further authorizes cities to pass ordinances that provide for the recovery of attorney fees in any action, administrative proceeding, or special proceeding to abate a nuisance; and

WHEREAS, a 1998 report by the U.S. Department of Justice found that sex offenders are the least likely criminals to be cured or rehabilitated and the most likely to re-offend, and that they prey on the most innocent members of our society; that more than two-thirds of the victims of rape and sexual assault are under the age of 18; and that sex offenders have a dramatically high rate of recidivism.

WHEREAS, the California Supreme Court in People v. Mosley, 60 Cal. 4th 1044 (2015), cited to established social science research, including two reports by the U.S. Department of Justice, Bureau of Statistics, and one report by the National Institute of Justice, finding extremely high rates of recidivism for those convicted of sex offenses, with some re-offenses occurring years after the initial commission. Accordingly, the Court found a constitutional and rational basis for continued regulation of sex offenders via registration following release, and irrespective of the type of underlying sex offense/victim.

WHEREAS, the City of West Covina is required to comply with state law as interpreted by the courts of the state.

WHEREAS, the City of West Covina recognizes that a balanced approach to the regulation of sex offenders includes measures that assist registrants by providing some housing opportunities, by reducing the opportunities to reoffend, and by adopting regulations that encourage more exclusive occupation of the City's varied land uses, all of which allows registrants to live in a less institutionalized environment.

WHEREAS, the City of West Covina recognizes that a balanced approach to the regulation of sex offenders also includes maintaining policies and Municipal Code provisions proscribing certain conduct, holding registrants and property owners accountable for violations, and promoting constructive involvement of law enforcement in monitoring registrants as permitted by law.

WHEREAS, the City Council recognizes that there is a need to enact the restrictions contained in this ordinance immediately to protect the public health and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA,

CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION NO. 1: The City Council finds that this Ordinance is necessary as an emergency measure for preserving the public peace, health and safety.

SECTION NO. 2: Section 15-19 (sex offender Residency Restrictions) of Article I (General) of Chapter 15 (Miscellaneous Provisions Relating to Public Safety) is hereby added as follows:

Section 15-19 Sex offender residency restrictions

Sec. 15-19.1 Definitions.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Boardinghouse shall mean a lot on which there is located a commercial land use for the rental of five or fewer guest rooms or suites primarily for temporary residency for a period of not more than 30 consecutive days.

Child or *children* shall mean any individual under the age of 18 years of age.

Child care center shall mean any State of California, Department of Social Services licensed facility that provides nonmedical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual 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.

Child Sex Offender shall mean an individual who is required to register under Penal Code section 290 and who has been convicted of any sexual crime involving a child who was fourteen (14) years old or younger at the time of the commission of the crime.

Duplex lot shall mean a lot designed for permanent residency and containing two dwelling units, whether attached or detached.

Hotel or *motel* shall mean a lot on which there is located a commercial land use for the rental of six or more guest rooms or suites for primarily temporary residency for a period of not more than 30 consecutive days.

Mobile home shall be considered to be a dwelling and shall mean a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. *Mobile home* includes a manufactured home, as defined in Section 18007 of the Health and Safety Code, and a mobile home, as defined in Section 18008 of the Health and Safety Code, but does not include a recreational vehicle, as defined in Section 799.29 of the Civil Code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18001.8 of the Health and Safety Code. Mobile home does not include a trailer or other

recreational vehicle located in a recreational vehicle park.

Mobile home park shall mean a residential land use where two or more mobile home sites are rented, or held out for rent, to accommodate mobile homes designed for permanent residency, with such homes not affixed to a permanent foundation.

Multi-family lot shall mean a lot designed for permanent residency and containing three (3) or more dwelling units whether attached or detached. This includes a lot containing apartment houses and condominiums, but does not include hotels or motels.

Permanent resident shall mean any person who, as of a given date, obtained the right to occupy a dwelling on a lot, including, but not limited to, a single family lot, multi-family lot, duplex lot, mobile home park, a hotel lot or motel lot for more than 30 consecutive days.

Residential exclusion zone shall include those areas located within two thousand (2,000) feet of the closest property line of the subject property to the closest property line of a child care center, public or private school grades K through 12, or park, in which specified sex offenders are prohibited from temporarily or permanently residing.

Sex offender means any person for whom registration is required pursuant to California Penal Code Section 290, regardless of whether that person is on parole or probation, and shall include violent sexual predators as defined under the California Penal Code.

Sexually violent predator is defined as a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior as delineated in Welfare & Institutions Code section 6600.

Single family lot shall mean a lot designed for permanent residency and containing one (1) dwelling unit, including those used as a residential facility which serves six or fewer individuals.

Temporary resident means any person who, as of a given date, obtained the right to occupy a dwelling on a lot, including, but not limited to, a single family lot, multi-family lot, duplex lot, mobile home park, a hotel lot or motel lot for 30 days or fewer.

Sec. 15-19.2 Sex offender violation – Single family lots.

No child sex offender or sexually violent predator shall be a permanent or temporary resident in a single family lot already occupied by any other sex offender, unless those persons are legally related by blood, marriage or adoption.

Sec. 15-19.3 Sex offender violation – Duplex lots.

No child sex offender or sexually violent predator shall be a permanent or temporary resident in a duplex lot already occupied by any other sex offender, unless those persons are legally related by blood, marriage or adoption.

Sec. 15-19.4 Sex offender violation – Multi-family lots.

No child sex offender or sexually violent predator shall be a permanent or temporary resident in a multi-family lot already occupied by any other sex offender, unless those persons are legally related by blood, marriage or adoption.

Sec. 15-19.5 Sex offender violation – Hotel, motel, boardinghouse.

- (a) No child sex offender or sexually violent predator shall be a permanent or temporary resident in a guest room of a hotel, motel, or boardinghouse already occupied by any other sex offender, unless those persons are legally related by blood, marriage or adoption.
- (b) No child sex offender or sexually violent predator shall be a permanent resident in any guest room of a hotel, motel, or boardinghouse wherein a separate and distinct guest room is already occupied by any other sex offender as a permanent resident.

Sec. 15-19.6 Sex offender violation – Mobile homes.

- (a) No child sex offender or sexually violent predator shall be a temporary or permanent resident in any mobile home sited in and upon a rented space located within a mobile home park wherein the mobile home is already occupied by any other sex offender, unless those persons are legally related by blood, marriage or adoption.
- (b) No child sex offender or sexually violent predator shall be a permanent resident in any mobile home sited in and upon a rented space located within a mobile home park within 2000 feet of any other mobile home sited in and upon a rented space located within the same mobile home park which is already occupied by a sex offender as a permanent resident, unless those persons are legally related by blood, marriage or adoption.

Sec. 15-19.7 Sex offender violation – Residential Exclusion Zone.

No child sex offender or sexually violent predator shall be a temporary or permanent resident in any Residential Exclusion Zone.


Sec. 15-19.8 Violations

Violations of the provisions of Section 15-19 are punishable pursuant to Sections 1-37 and 1-38 of the West Covina Municipal Code. Violations of the provisions of Section 15-19 are also declared a public nuisance and may be abated as provided by law.

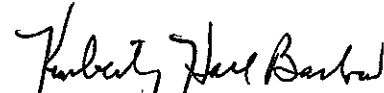
SECTION NO. 3: The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be posted or published in the manner as required by law.

SECTION NO. 4: This ordinance shall take effect and be in force immediately from and after the date of its passage.

PASSED, APPROVED AND ADOPTED on this 21st day of July, 2015.



Fredrick Sykes
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

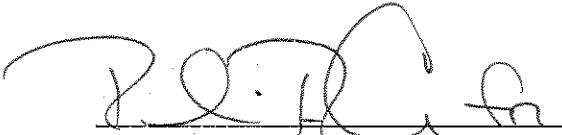
ATTEST:



Nickolas S. Lewis
City Clerk

I, NICKOLAS S. LEWIS, CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Urgency Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 21st day of July, 2015. That thereafter said Urgency Ordinance was duly adopted and passed at a regular meeting of the City Council on the 21st day of July, 2015, by the following vote:

AYES: Spence, Toma, Warshaw, Wong, Sykes
NOES: None
ABSENT: None
ABSTAIN: None



Nickolas S. Lewis
City Clerk