

STAFF REPORT
City of Lancaster

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MVB

Date: March 12, 2013

To: Mayor Parris and City Council Members

From: Dave McEwen, City Attorney

Subject: **Ordinance Amending Chapter 9.44 of the Lancaster Municipal Code Relating to Registered Sex Offenders**

Recommendation:

Introduce **Ordinance No. 988**, amending Chapter 9.44 of the Lancaster Municipal Code relating to registered sex offenders.

Fiscal Impact:

The fiscal impact of the Ordinance is unknown.

Background:

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”) in order to better protect Californians, and in particular to protect children, from registered sex offenders. Proposition 83 enacted Section 3003.5(b) of the California Penal Code, which prohibits any registered sex offender from residing within 2,000 feet of any public or private school, or any park where children regularly gather. Section 3003.5(a) of the California Penal Code prohibits any person who is released on parole for a crime for which registration is required under Section 290 of the California Penal Code from living in a single-family dwelling with another sex offender during his or her parole, unless those individuals are related. Section 3003.5(c) of the California Penal Code expressly authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of any registered sex offender.

The City Attorney’s Office was previously requested by the Criminal Justice Commission to draft an ordinance based upon Jessica’s Law in order to restrict and regulate the places that a registered sex offender may reside and frequent. That ordinance was adopted by the City Council on September 11, 2012, as Ordinance No. 981, which added Chapter 9.44 to the Lancaster Municipal Code (entitled “Regulation of Registered Sex Offenders”) and imposed restrictions and regulations upon registered sex offenders in addition to those imposed under state law.

While Ordinance No. 981 was intended to supplement, not to conflict with, existing state law by imposing more stringent restrictions on the locations where registered sex offenders may reside and by imposing restrictions on the locations that registered sex offenders may frequent, issues were recently raised concerning the constitutionality of certain aspects of Ordinance No. 981. To address such issues, and to avoid the cost of potential litigation, the Ordinance repeals and replaces the current version of Chapter 9.44 of the Lancaster Municipal Code (which was added by Ordinance No. 981). The new version of Chapter 9.44 as set forth in the Ordinance is limited to activity related to Halloween. Specifically, it provides that “[o]n October 31st of each year, as well as on any day designated by the city for any Halloween trick or treating event, a registered sex offender, shall: (i) leave all exterior residential, decorative and ornamental lighting off during the hours of 5:00 p.m. to 11:59 p.m.; and (ii) not decorate his or her permanent residence with Halloween decorations, and remove any such decorations; and (iii) not answer the door to children who are trick-or-treating.”

Attachment:

Ordinance No. 988