



Board Agenda Item 31

DATE: March 24, 2020

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Amend the Ordinance Code of Fresno County, Title 10, Public Peace, Morals, and Welfare by repealing Chapter 10.42, Residency Restrictions of Registered Sex Offenders, in its entirety

RECOMMENDED ACTION(S):

Conduct second hearing to amend the Ordinance Code of Fresno County, Title 10, Public Peace, Morals and Welfare, Part VII, Offenses by and against Minors, by repealing Chapter 10.42, Residency Restrictions for Registered Sex Offenders, in its entirety; reserve Chapter 10.42 of the Ordinance Code of Fresno County; and waive reading of the ordinance in its entirety; and adopt proposed ordinance.

Approval of the recommended action will allow for the repeal of Chapter 10.42 of the Ordinance Code of Fresno County in its entirety because this ordinance does not provide any meaningful enforcement value for the County, it may contribute to the an increase in the homeless population within Fresno County, and has not been utilized by law enforcement since court decisions have rendered blanket residency restrictions for sex offenders invalid. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, Chapter 10.42 of the Ordinance Code of Fresno County will not be repealed.

FISCAL IMPACT:

There is no fiscal impact associated with the recommended action.

DISCUSSION:

On March 10, 2020, the Board conducted the first hearing for the recommended ordinance amendment. On November 7, 2006, the voters of the State of California approved Proposition 83, commonly known as Jessica's Law, which amended Penal Code section 3003.5 and added subdivision (b), to prohibit registered sex offenders from residing within 2000 feet of any public or private school or park where children regularly gather. Proposition 83 also amended Section 3003.5 and added subdivision (c), which authorizes local jurisdictions to enact local ordinances that further restrict the residency of any registered sex offender.

On May 6, 2008, the Board of Supervisors adopted Fresno County Ordinance No. 08-010 thereby amending the Ordinance Code of Fresno County, Title 10, Peace, Morals and Welfare, Part VII, Offenses by and against Minors, by adding Chapter 10.42, Residency Restrictions for Registered Sex Offenders. Chapter 10.42 further restricts the residency of registered sex offenders by adding to the locations where children

regularly gather and the required separation between those locations and registered sex offenders. The additional locations included child care centers, public libraries and school bus stops. The ordinance increased the distance of separation between the residence of sex offenders and the listed locations to 3000 feet.

In 2015, the California Supreme Court found Penal Code section 3003.5 and the blanket residency restrictions it imposed to be unconstitutional. However, the Court preserved the ability of the State of California to impose residency restrictions on an individualized basis for registered sex offenders released on parole.

Fresno County law enforcement relies on state law in regards to the enforcement of registration or any individualized residency restrictions imposed as a condition of parole for sex offenders. The imposition of residency restrictions is now a matter exclusively for the State of California as it may continue to impose individualized residency restrictions on registered sex offenders as a condition of parole. Repeal of Chapter 10.42 in its entirety is recommended.

REFERENCE MATERIAL:

BAI #14, March 10, 2020

BAI #16, May 6, 2008

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance

CAO ANALYST:

Yussel Zalapa