

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NO. 20-004

5 AN ORDINANCE AMENDING CHAPTER 10.42, ENTITLED "RESIDENCY
6 RESTRICTIONS FOR REGISTERED SEX OFFENDERS," OF TITLE 10,
7 ENTITLED, "PUBLIC PEACE, MORALS AND WELFARE," OF PART VII,
8 ENTITLED "OFFENSES BY AND AGAINST MINORS," OF THE ORDINANCE
9 CODE OF FRESNO COUNTY BY REPEALING CHAPTER 10.42 IN ITS
10 ENTIRETY

11 WHEREAS, on May 6, 2008, the Board of Supervisors ("Board") of the County of Fresno
12 ("County"), State of California, duly ordained, adopted, enacted and approved Chapter 10.42,
13 which was thereby added to Title 10, entitled, "Public Peace, Morals and Welfare," Part VII,
14 entitled, "Offenses by and against Minors," of the Ordinance Code of Fresno County to read as
15 follows: "Chapter 10.42, Residency Restrictions for Registered Sex Offenders" (also referred to
16 herein as "Chapter 10.42"), Fresno County Ordinance No. 08-010, all as provided and required
17 by all applicable laws;

18 WHEREAS, Chapter 10.42 provides, no person required to register pursuant to Penal
19 Code section 290 shall permanently or temporarily reside within three thousand (3,000) feet of a
20 public and private school, park, child care center, public library, or a school bus stop;

21 WHEREAS, Chapter 10.42 also provides, that any person who violates this chapter may
22 be guilty of a misdemeanor pursuant to Title 1, Chapter 1.12, Section 1.12.010 of the Fresno
23 County Ordinance Code;

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1 WHEREAS, on November 7, 2006, the voters of the State of California approved
2 Proposition 83, which amended Penal Code section 3003.5 and added subdivision (b) to prohibit
3 registered sex offenders from residing within 2000 feet of any public or private school, or park
4 where children regularly gather;

5 WHEREAS, Penal Code section 3003.5, subdivision (c) authorizes local jurisdictions to
6 enact local ordinances that further restrict the residency of any registered sex offender.

7 WHEREAS, on May 6, 2008, the Board adopted Fresno County Ordinance No. 08-010,
8 pursuant to the authority provided by Penal Code section 3003.5, subdivision (c), which increased
9 the minimum distance separating public and private schools, parks, child care centers, public
10 libraries, school bus stops from the residency of registered sex offenders from 2000 feet to 3000
11 feet within the unincorporated areas of the County of Fresno;

12 WHEREAS, the Board found the possible location of registered sex offenders' residences
13 in areas close to child care centers, public libraries, and school bus stops constituted urgency and
14 required the Fresno County Ordinance No. 08-010 to take immediate effect after adoption;

15 WHEREAS, in 2015, the California Supreme Court found Penal Code section 3003.5 and
16 the blanket residency restrictions it imposed to be unconstitutional with concern that residency
17 restrictions imposed under state law threatened the health and safety of registered sex offenders
18 by forcing them into homelessness and making it difficult for law enforcement to track these same
19 homeless registered sex offenders;

20 WHEREAS, California courts have found that local ordinances imposing residency
21 restrictions on registered sex offenders have been preempted by Penal Code section 3003.5;

22 WHEREAS, Fresno County law enforcement relies on state law in regards to the
23 enforcement of registration or any individualized residency restrictions imposed as a condition of
24 parole for sex offenders;

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1 WHEREAS, such amendment to repeal Chapter 10.42 in its entirety, provided herein, is
2 hereinafter collectively referred to as this "Repealing Ordinance Amendment;"

3 WHEREAS, the Board may amend Chapter 10.42 from time to time, which includes this
4 Repealing Ordinance Amendment;

5 WHEREAS, as provided in the Ordinance Code of Fresno County, Sections 10.42.010
6 and 10.42.020, the provisions of Chapter 10.42 and any subsequent amendments to Chapter
7 10.42 shall be read together;

8 WHEREAS, all terms in this Repealing Ordinance Amendment shall have the meaning
9 given to them in Chapter 10.42, unless otherwise defined herein; and

10 WHEREAS, after having duly given all advance publications and any other public notices,
11 and duly conducted all public meetings and hearings, required by law with respect to the Board's
12 proposed adoption of this Repealing Ordinance Amendment at which public testimony,
13 comments, and input were given, and oral or (if any) written information were duly considered by
14 the Board.

15 NOW THEREFORE, the Board of Supervisors of the County of Fresno, State of California,
16 hereby ordains as follows:

17 **SECTION 1. AMENDMENT REPEALING CHAPTER 10.42**

18 A complete, true and correct copy of Chapter 10.42, Residency Restrictions for Registered
19 Sex Offenders, of Title 10, "Public Peace, Morals and Welfare," Part VII, "Offenses by or against
20 Minors" of the Ordinance Code of Fresno County, including Sections 10.42.010 through and
21 including 10.42.020, is attached hereto as Exhibit A, and incorporated herein by this reference.

22 Chapter 10.42, Residency Restrictions for Registered Sex Offenders, of Title 10 "Public
23 Peace, Morals and Welfare," Part VII, "Offenses by and against Minors" of the Ordinance Code
24 of Fresno County, is hereby amended, by the repeal thereof in its entirety, as follows:

25 (a) Section 10.42.010, entitled "Violations of Residential Exclusion Zone," of Chapter

1 10.42, Residency Restrictions for Registered Sex Offenders, of Title 10, "Public
2 Peace, Morals and Welfare," Part VII, "Offenses by and against Minors" of the
3 Ordinance Code of Fresno County, is hereby amended so that it is deleted, and
4 repealed, in its entirety and is of no further force or effect;

5 (b) Section 10.42.020, entitled "Violations of Residential Exclusion Zone," of Chapter
6 10.42, Residency Restrictions for Registered Sex Offenders, of Title 10, "Public
7 Peace, Morals and Welfare," Part VII, "Offenses by and against Minors" of the
8 Ordinance Code of Fresno County, is hereby amended so that it is deleted, and
9 repealed, in its entirety and is of no further force or effect.

10 **SECTION 2. RESERVED.**

11 Chapter 10.42 of Title 10, Public Peace, Morals and Welfare, Part VII, Offenses by and
12 against Minors, of the Ordinance Code of Fresno County is hereby reserved for future use.

13 **SECTION 3. EFFECTIVE DATE/PUBLICATION.**

14 This Repealing Ordinance Amendment shall be effective thirty (30) days from the Board's
15 adoption of this Repealing Ordinance Amendment. Within fifteen (15) calendar days after the
16 Board's adoption of this Repealing Ordinance Amendment, a summary of this Repealing
17 Ordinance Amendment, with the names of those supervisors of the Board voting for and against
18 the same, shall be published once in a newspaper of general circulation, printed and published in
19 Fresno County, and the Clerk to the Board shall post in the office of the Clerk to the Board a
20 certified copy of the full text of this adopted Repealing Ordinance Amendment along with the
21 names of those supervisors voting for and against this ordinance.

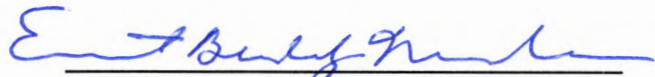
1 THE FOREGOING, was passed and adopted by the following vote of the Board
2 of Supervisors of the County of Fresno this 24th day of March, 2020, to wit:

3 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

4 NOES: None

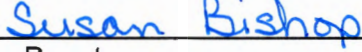
5 ABSENT: None

6 ABSTAINED: None

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8 Ernest Buddy Mendes, Chairman of the
9 Board of Supervisors of the County of Fresno

10 **ATTEST:**
11 Bernice E. Seidel
12 Clerk of the Board of Supervisors
County of Fresno, State of California

13 By: 
14 Deputy

15 FILE #20-0258

16 AGENDA #31

17 ORDINANCE #20-004
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EXHIBIT “A”

3/3/2020

Fresno County, CA Code of Ordinances

VII. - OFFENSES BY OR AGAINST MINORS

Chapter 10.42 - RESIDENCY RESTRICTIONS FOR REGISTERED SEX OFFENDERS

Sections:

10.42.010 - Violation of residential exclusion zone.

No person for whom registration is required pursuant to Penal Code Section 290 shall permanently or temporarily reside within three thousand feet of a public and private school, park, child care center, public library, or a school bus stop.

(Ord. 08-010, § 1)

10.42.020 - Violation—Penalty.

The penalty for violation of any of the provisions of this chapter shall be as prescribed in Section 1.12.010.

(Ord. 08-010, § 1)