

**ORDINANCE NO. 07-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF GROVER BEACH, CALIFORNIA, ADDING CHAPTER 16 TO ARTICLE III  
OF THE GROVER BEACH MUNICIPAL CODE, REGARDING  
RESIDENCY REQUIREMENTS FOR PENAL CODE 290 REGISTRANTS**

**WHEREAS**, based on the evidence available, sex offenders have recidivism rates as high as forty-five percent. According to a 1997 report by the U. S. Department of Justice, and subsequent amendments, sex offenders are least likely to be cured and the most likely to re-offend, and tend to prey on the most innocent members of society; and

**WHEREAS**, more than two-thirds of the victims of rape and sexual assault are under eighteen years of age. Sex offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon. Sex offenders pose a clear threat to the children residing or visiting in the City of Grover Beach; and

**WHEREAS**, the voters of the State of California adopted Proposition 83 which went into effect on January 1, 2007. One section of Proposition 83 enacted Penal Code Section 3003.5 which authorizes municipal jurisdictions to enact local ordinances that restrict the residency of any person who is required to register as a sex offender pursuant to Penal Code Section 290; and

**WHEREAS**, the City Council of the City of Grover Beach desires to impose safety precautions in furtherance of the goal of protecting children by establishing areas around schools, parks, and licensed day care centers wherein certain sexual offenders shall be prohibited from establishing permanent or temporary residence; and

**WHEREAS**, this Ordinance is not intended to conflict with state law but is intended to supplement existing state law but to tailor the areas where sex offenders are allowed to establish residence to the unique geography of the City of Grover Beach.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GROVER BEACH** does ordain as follows:

**PART 1.**

**SECTION 1. RECITALS**

The above recitals and findings are true and correct.

**SECTION 2.** Chapter 16 is hereby added to Article III of the Grover Beach Municipal Code to read as follows:

## **CHAPTER 16. RESIDENCY REQUIREMENTS FOR PENAL CODE 290 REGISTRANTS**

### **Sec. 3999. Definitions and Prohibitions.**

#### **A. Definitions.**

1. "Children" means those persons who are under the age of eighteen (18).
2. "Sex offender" means a person who has been required to register with a governmental entity as a sex offender under California Penal Code Section 290.
3. "Day care center" means any child care facility including infant centers, preschools, extended day care facilities, and school-age child care centers, as defined in Section 1596.76 of the California Health and Safety Code and licensed pursuant to the provisions of the California Child Day Care Facilities Act (Health and Safety Code Sections 1596.70 et. seq).
4. "Permanent residence" means a place where a person abides, lodges, or resided for fourteen (14) or more consecutive days.
5. "Temporary residence" means a place where a person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where a person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
6. "Park" means any city, county, school district, state or federal public park or playground where children are likely to be.
7. "School" means any public or private school which is established to educate children under eighteen years of age.

#### **B. Prohibitions.**

1. It is unlawful for any sex offender as defined in this Ordinance, where their victim was less than eighteen years of age, to establish a permanent residence or temporary residence within one thousand (1,000) feet of any school, park, or day care center, as defined in this Ordinance.
2. The City Council shall, by Resolution, adopt a list of the facilities described in this subsection as well as a map showing the protected locations and those properties within one thousand (1,000) feet of the protected locations. The list and map shall be updated on an annual basis, but may be updated more frequently should new protected locations be established or where uses in existing protected location have changed.
3. Distance from protected locations shall be measured from the outer boundaries of the properties on which the facilities described in this subsection are situated. Any parcels that are partially included within a protected area, as shown on the map, shall be considered to be wholly included within the protected area.

4. The distance of one thousand (1,000) feet shall be measured in a straight line from the closest property line of the residence of a sex offender, to the closest property line of any protected location.

Section 3999.1. Violations

A violation of this section is a misdemeanor punishable by a fine of up to One Thousand Dollars (\$1,000.00) or by imprisonment for up to one (1) year, or both. A person is guilty of a new and separate offense if he/she has not relocated his/her residence to an area which is not within one thousand (1,000) feet of a protected area within thirty (30) days of being cited for a violation of this section for the first time. In addition a person is guilty of a new and separate offense for each day thereafter that he/she does not relocate his/her residence to an area that is not within one thousand (1,000) feet of a protected area.

**PART 2. SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

**PART 3.** This Ordinance shall become effective thirty (30) days after the date of its adoption, and within fifteen (15) days after its adoption, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

**INTRODUCED** at a Special Meeting of the City Council held Monday, January 22, 2007 and **PASSED, APPROVED, and ADOPTED** by the City Council at a Regular Meeting on Monday, February 5, 2007 on the following roll call vote, to wit:

AYES:	Council Members Ashton, Nicolls, Versaw, Mayor Pro Tem Shoals, and Mayor Lieberman.
NOES:	Council Members – None.
ABSENT:	Council Members – None.
ABSTAIN:	Council Members – None.

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STEPHEN C. LIEBERMAN, MAYOR

ATTEST:

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DONNA L. McMAHON, CITY CLERK

APPROVED AS TO FORM:

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MARTIN D. KOCZANOWICZ, CITY ATTORNEY