

ORDINANCE NO. 9811

AN ORDINANCE ADDING CHAPTER 16, SEX OFFENDER LOITERING
ORDINANCE, TO TITLE 3, DIVISION 2 OF THE SAN DIEGO COUNTY CODE OF
REGULATORY ORDINANCES

The Board of Supervisor of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that there is a need to add an ordinance to the Code of Regulatory Ordinances that will prohibit those who are required to register as sex offenders from loitering in areas frequented by children.

Section 2. The San Diego County Code of Regulatory Ordinances is hereby amended to add to Title 3, Division 2, a new CHAPTER 16, as follows:

CHAPTER 16 SEX OFFENDER LOITERING ORDINANCE

SEC. 32.1601. DEFINITIONS.

(a) “Sex Offender” means an individual who is currently required by law to register with a governmental entity as a sex offender.

(b) For purposes of this Chapter, ‘loitering’ means remaining, lingering or wandering in a public or private place for the purpose of engaging in any lewd, lascivious or otherwise illegal conduct, including but not limited to committing offenses specified in Penal Code sections 207, 209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 288.3, 289, 311.1, 311.2, 311.4 or 311.11 or for the purpose or intent of engaging any person in any sexual act of any kind, or for the purpose or intent of soliciting any person to engage in any sexual act of any kind.

(c) “Child” or “children” means any person who has not reached his or her eighteenth birthday.

(d) “Child care and development agency” shall have the meaning set forth in California Education Code § 8208.

(e) “County Park” shall mean have the meaning set forth in County Regulatory Ordinance 41.101(b).

SEC. 32.1602. PROHIBITION AND ENFORCEMENT

Any sex offender who loiters, as defined by section 32.1601, subdivision (b), of this Chapter, in a public or private place that is on or within 300 feet of a public or private school for children, a child care and development facility, a park, recreation facility, playground or arcade where children are present, is guilty of a misdemeanor. Each offense is punishable by a fine of not more than \$1,000 (one thousand dollars) or by

confinement in the County Jail for a term not exceeding six months, or by both such fine and confinement. Each distinct and separate instance in which a sex offender loiters as prohibited by Section 32.1601, subdivision (b), shall constitute a separate offense.

SEC. 32.1603. EXCEPTIONS

(a) This Chapter shall not apply to restrict incidental proximity not amounting to loitering as defined by Section 32.1601, subdivision (b) of this Chapter.

(b) This Chapter shall not restrict access to public parks for the purpose of exercising First Amendment rights under the United States Constitution, nor any other constitutional rights under either the United States Constitution or the California State Constitution, so long as such activity does not constitute loitering as defined in Section 32.1601.

(c) This Chapter does not apply to restrict a sex offender's place of residence when such residency is regulated by state law.

Section 3. This ordinance shall take effect and be in force 30 (thirty) days after its passage, and before the expiration of 15 (fifteen) days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 5th day of December 2006