

REPORT TO THE CITY COUNCIL



DATE: December 6, 2016

TITLE: Ordinance Repealing "Registered Sex Offender Restrictions"

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RECOMMENDATION

Introduce for First Reading, "An Ordinance of the City Council of Desert Hot Springs repealing Chapter 9.24 "Registered Sex Offender Restrictions" Contained in Title 9 of the Desert Hot Springs Municipal Code," waive the reading of the Ordinance in its entirety and City Clerk ready by title only.

BACKGROUND:

The City of Desert Hot Springs adopted Ordinance No. 512 which was enacted as part of the Desert Hot Springs Municipal Code Chapter 9.24, titled "Registered Sex Offender Restrictions", which was codified at sections 9.24.010 to 9.24.230. Ordinance 512 prohibits, among other things, registered sex offenders from congregating within 2000 linear feet of protected locations such as parks and recreation facilities.

The California legislature has enacted regulations on the residency and activities of registered sex offenders, including but not limited to California Penal Code Section 653b which prohibits registered sex offenders from loitering about any school or public place at or near which children attend or normally congregate.

Desert Hot Springs Municipal Code sections 9.24.101 through 9.24.230 create residency restrictions on registered sex offenders that conflict with court decisions that have examined and made determinations on the constitutionality of registered sex offender residency restrictions.

The California Supreme Court recently reviewed residency exclusion zones in San Diego County as a result of a constitutional challenge to the application of residential exclusion provisions in the California Penal Code. See, *In re Taylor*, 60 Cal.4th 1019 (2105). The California Supreme Court held that: 1) all parolees retain certain basic rights and liberty interests, and enjoy a measure of constitutional protection against the arbitrary, oppressive and unreasonable curtailment of the core values of unqualified liberty and 2) Penal Code Section 3003.5(b), which sets exclusion zones, as applied and enforced cannot survive scrutiny because it has hampered efforts to monitor, supervise, and rehabilitate such parolees in the interests of public safety, and as such, bears no rational relationship to advancing the state's legitimate goal of protecting children from sexual predators. This decision by the California Supreme Court is binding on Desert Hot Springs.

The proposed ordinance would repeal DHSMC Sections 9.24.010 to 9.24.230 based on the foregoing.

EXHIBITS:

- 1) Ordinance Repealing Sections 9.24 (Sex Offender)