

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor Ashley, Supervisor Stone
District Attorney Rod Pacheco

SUBMITTAL DATE: July 22, 2010

SUBJECT: Resolution No. 2010-236, Opposing the Parole of Felon Donald Schmidt to Riverside County; Ordinance No. 449.239, an Urgency Interim Ordinance of the County of Riverside Prohibiting Parolee-Probationer Homes; Ordinance No. 901, an Urgency Ordinance of the County of Riverside Establishing Sex Offender Residency and Loitering Prohibitions; Ordinance No. 902, an Ordinance of the County of Riverside Establishing Sex Offender Residency and Loitering Prohibitions.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt Resolution No. 2010-236, Opposing the Parole of Felon Donald Schmidt to Riverside County;
2. Adopt Ordinance No. 449.239, an Urgency Interim Ordinance of the County of Riverside Prohibiting Parolee-Probationer Homes (4/5ths vote required);
3. Adopt Ordinance No. 901, an Urgency Ordinance of the County of Riverside Establishing Sex Offender Residency and Loitering Prohibitions (4/5ths vote required); and
4. Introduce and adopt on successive weeks Ordinance No. 902, an Ordinance of the County of Riverside Establishing Sex Offender Residency and Loitering Prohibitions.

BACKGROUND: In 1988 at the age of 17, Donald Schmidt sexually assaulted and brutally murdered a 3-year-old girl in Santa Cruz County, drowning her in a bathtub while the girl's mother was out of the room for five minutes getting a towel. Even though this dangerous felon has never been in Riverside County and has no ties to the community, state parole officials may release him to a facility in Good Hope, outside Perris. For the additional reasons set forth in Resolution No. 2010-236, it is imperative that this Board take immediate action to protect its residents.

(continued on next page)



Marion Ashley, Chairman



Jeff Stone, Third District Supervisor



Rod Pacheco, District Attorney

MAJS/RP:re

3.90

BACKGROUND: (continued)

Resolution No. 2010-236 opposes Donald Schmidt's parole to Riverside County.

Ordinance No. 449.239 will immediately prohibit parolee-probationer homes in Riverside County that are not licensed by the state, or are licensed by the state to serve seven or more residents.

Ordinance No. 901 will immediately establish sex offender residency and loitering requirements in Riverside County. This ordinance will, among other things:

Prohibit a sex offender from residing within 2,000 feet of a child care center, a public or private school or a park;

Prohibit a sex offender from residing in a single-family home, multi-family home, or hotel, motel or inn if the home or room is already occupied by a sex offender;

Prohibit property owners from renting or leasing a home or room to more than one sex offender; and

Prohibit sex offenders from loitering within 300 feet of a child care center, public or private school, park, library or swimming pool.

Ordinance No. 902 is identical to and will replace Ordinance No. 901 when it (Ordinance No. 902) becomes effective in 30 days.

2 RESOLUTION NO. 2010-236

3 OPPOSING THE PAROLE OF

4 FELON DONALD SCHMIDT TO RIVERSIDE COUNTY

5
6 WHEREAS, in 1988 at the age of 17, Donald Schmidt sexually assaulted and brutally murdered a
7 3-year-old girl more than 400 miles away from Riverside County; and

8 WHEREAS, Donald Schmidt drowned the defenseless girl in a bathtub in a five-minute period
9 while the girl's mother was getting a towel; and

10 WHEREAS, Donald Schmidt was convicted as a juvenile in Santa Cruz County and has been
11 confined since that time in state detention centers for juveniles; and

12
13 WHEREAS, even though this now 38-year-old dangerous felon has never even been to Riverside
14 County, state juvenile justice officials have announced that he might soon be paroled to a facility in the
15 Good Hope area of Riverside County; and

16 WHEREAS, the Good Hope facility is less than one-half mile from the Goodmeadow Community
17 Center and less than one mile from Good Hope Elementary School, which more than 500 children attend;
18 and

19 WHEREAS, although Donald Schmidt is still under the control of state juvenile authorities, state
20 law governing the parole of adult felons outside their home county requires the state Board of Parole
21 Hearings to consider public concern that would reduce an inmate's chance of successfully completing
22 parole; and

23 WHEREAS, the furor and public protest that followed the parole of sex offender David Allyn
24 Dokich in 2005 to a halfway house in Mead Valley graphically illustrates the public concern that threatens
25 Donald Schmidt's ability to live in Good Hope and successfully complete parole; and

26 WHEREAS, when an adult felon is to be paroled out of his home county, the Board of Parole
27 Hearings must consider whether there is a verified work offer, or an educational or vocational training
28 program for the parolee, none of which apparently exists for Donald Schmidt in Riverside County; and

///

1 WHEREAS, Donald Schmidt has no family in Riverside County with whom he has maintained
2 strong ties and whose support would increase the chance of successfully completing his parole, another
3 factor that the Board of Parole Hearings must consider in paroling adult inmates out of their home county;
4 and

5 WHEREAS, Riverside County should not be treated as a dumping ground for other counties'
6 paroled felons and that if Donald Schmidt must be released, it should be to his home county or a place
7 where he has ties to the community, not to a place where he is a stranger whose mere presence worries
8 and endangers Riverside County residents; and

9 WHEREAS, it would be unfair and shameful to release Donald Schmidt to Riverside County,
10 where residents have no connection to him and no responsibility for dealing with him or his crimes; now,
11 therefore;

12 BE IT RESOLVED by the Board of Supervisors that it vigorously opposes Donald Schmidt's
13 parole to Riverside County, an unconscionable and indefensible act that would unfairly burden Riverside
14 County and create fear and potential danger for its residents.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
F:\resparz1\resolution2010\2010 236 schmidt.doc 072110

1 Rehabilitation, Division of Juvenile Facilities (formerly known as the “California Youth Authority”)
2 who has received conditional and revocable release in the community under the supervision of the
3 California Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations.

4 c. Probationer. A person convicted of a felony who has received a
5 suspension of the imposition or execution of a sentence and an order of conditional and revocable
6 release in the community under the supervision of a probation officer, or a person convicted of a
7 misdemeanor who has received a suspension of the imposition or execution of a sentence and an order
8 of revocable release in the community subject to conditions established by the court without the
9 supervision of a probation officer, as provided in Penal Code section 1203.

10 d. State-Licensed Residential Care Facility. A facility licensed by the State
11 of California to provide residential care services, including those facilities described in Health & Safety
12 Code sections 1250 et seq., 1500 et seq., 1568.01 et seq., 1569 et seq., 1760 et seq., and 11834.20 et seq.
13 and those facilities described in Welfare and Institutions Code section 5116.

14 Section 2. Pursuant to section 65858 of the Government Code and section 20.4 of
15 Ordinance No. 348, this ordinance is hereby declared to be an urgency measure and shall take effect
16 upon its adoption. It shall be of no further force or effect forty-five (45) days from the date of its
17 adoption unless extended pursuant to law. In adopting this ordinance, the Board finds that parolee-
18 probationer homes pose a current and immediate threat to the public health, safety and welfare for the
19 following reasons:

20 Parolee-probationer homes are proliferating in Riverside County and the California
21 Department of Corrections and Rehabilitation is increasingly placing parolees and probationers in the
22 County even when they committed crimes in other counties and have no ties to the area;

23 Based on reports generated by various public agencies throughout California, parolee-
24 probationer homes often result in increased criminal activity and generate a disproportionate number of
25 requests for law enforcement services; this adversely affects other segments of the community needing
26 such services and unduly imposes a burden on law enforcement services in general;

27 Parolee probationer homes often result in parking and noise problems and have other
28 harmful secondary effects, such as encouraging the illegal conversion of garages and living spaces into

1 sleeping spaces;

2 The harmful secondary effects associated with parolee-probationer homes may negatively
3 affect surrounding home values and result in increased foreclosures and resident displacement;

4 Existing zoning regulations do not adequately regulate parolee-probationer homes and
5 absent this ordinance, parolee-probationer homes could be located near schools, day care centers, parks,
6 playgrounds and other sensitive uses.

7 Section 3. In adopting this ordinance, the Board reports that measures to alleviate the
8 conditions that led to its adoption will be taken and that such measures shall include, but not be limited
9 to, the formulation and adoption of regular zoning regulations, consistent with State law, that adequately
10 regulate parolee-probationer homes and protect the public from their harmful secondary effects.

11 Section 4. The Clerk shall schedule a public hearing before the Board to consider any
12 extension of this ordinance which shall normally be at its second regular meeting before expiration of
13 the initial forty-five (45) day period. The Clerk shall publish notice ten (10) days before the hearing. A
14 public hearing need not, however, be scheduled if any of the following occurs: a regular
15 zoning ordinance regulating parolee-probationer homes is adopted and effective before such expiration,
16 this ordinance is repealed, or the Board otherwise orders.

17
18
19
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 5. At or before the public hearing on any proposed extension, and at least ten (10) days prior to the expiration of this ordinance, the Board, in consultation with the Planning Director, shall issue a written report describing therein all measures taken to alleviate the condition which led to the adoption of this ordinance.

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman, Board of Supervisors

ATTEST:
CLERK OF THE BOARD

By: _____
Deputy
(SEAL)

APPROVED AS TO FORM
July 22, 2010

By: Katherine A. Lind
KATHERINE A. LIND
Assistant County Counsel

KAL:mdk
07/21/10
G:\PROPERTY\KLIND\ORDINANCES\ORD. 449.239 PAROLEE-PROBATIONER HOME INTERIM ZONE 072010.DOC

1 ORDINANCE NO. 901

2 AN URGENCY ORDINANCE OF THE COUNTY OF RIVERSIDE

3 ESTABLISHING SEX OFFENDER RESIDENCY AND

4 LOITERING PROHIBITIONS

5
6 The Board of Supervisors of the County of Riverside ordains as follows:

7 Section 1. FINDINGS. Several studies conducted in California and throughout the
8 United States demonstrate that there is a substantial threat posed by sex offenders. A 1998 U.S.
9 Department of Justice study found that sex offenders are the least likely of all parolees to be cured and the
10 most likely to reoffend, and they prey on the most innocent members of our society. More than two-
11 thirds of the victims of rape and sexual assault are under the age of eighteen (18). In 2003, another U.S.
12 Department of Justice study found that over five percent of sex offenders were arrested for another crime
13 within three years of being paroled. The same study also found an estimated three percent of child
14 molesters were rearrested for another sex crime against a child within three years, and that most of the
15 children they were alleged to have molested were thirteen (13) years old or younger.

16 The Board of Supervisors is concerned about the public safety threat posed by the over
17 concentration of sex offenders living on one lot within the County, and is further concerned that this
18 public safety threat has not been adequately addressed by the provisions of Penal Code section 3003.5,
19 subdivisions (a) and (b), nor have such concerns been adequately addressed by the California Department
20 of Corrections and Rehabilitation of its Division of Parole, with respect to the placement, over
21 concentration and oversight of sex offender parolees within the County of Riverside. The County is
22 concerned about the significant public safety concerns posed by the presence of sex offenders near certain
23 locations within the County of Riverside that are frequented by children, such as day care facilities,
24 playgrounds, and other similar facilities, and is further concerned that such public safety concerns have
25 not been adequately addressed by the provisions of Penal Code section 3003.5, subdivisions (a) and (b).
26 The Board of Supervisors finds that given the immediate threat posed by sex offenders to the safety of
27 children and other potential victims in many neighborhoods, it must take urgent, additional steps to
28 monitor sex offenders, to protect the public from them, and to provide adequate penalties for and

1 safeguards against sex offenders, particularly those that prey on children.

2 Section 2. PURPOSE. The purpose of this ordinance is to better protect the children
3 of the County of Riverside by restricting the residency of any registered sex offender, whether or not on
4 parole or probation.

5 Section 3. AUTHORITY. This ordinance is adopted pursuant to Penal code section
6 3003.5, subdivision (c), which authorizes municipal jurisdictions to enact local ordinances that further
7 restrict the residency of any registered sex offender, whether or not on parole or probation.

8 Section 4. DEFINITIONS. As used in this ordinance, the following terms shall have
9 the following meanings:

- 10 a. Child. Any person under the age of eighteen (18) years of age.
- 11 b. Child Day Care Facility. Any State of California, Department of Social
12 Services (“CDSS”) licensed facility, as that term is defined under Health and
13 Safety Code Section 1596.750, that provides non-medical care to children under
14 18 years of age in need of personal services, supervision, or assistance essential
15 for sustaining the activities of daily living or for the protection of the individual
16 on less than a twenty four (24) hour basis, including but not limited to day care
17 center, employer-sponsored child care center, family day care home, infant center,
18 preschool, extended-day care facility, or school-age child care center.
- 19 c. Child Safety Zone. Those areas located within a three hundred (300) foot radius
20 of a child care center, public or private school, park, public library, public
21 swimming or wading pool, commercial establishment that provides any area in or
22 adjacent to such establishment as a children’s playground, school bus stop, or any
23 location that facilitates on the property classes or group activities for children.
- 24 d. Duplex. A residential land use for a building containing two dwelling units.
- 25 e. Hotel/Motel. A commercial land use for the rental of six (6) or more guest
26 rooms or suites for primarily temporary residency for a period of not more than
27 thirty (30) consecutive days.

- 1 f. Inn. A commercial land use for the rental of five (5) or fewer guest rooms or
2 suites primarily for temporary residency for a period of not more than thirty (30)
3 consecutive days.
- 4 g. Knowingly. With knowledge of the existence of the facts in question.
5 Knowledge of the unlawfulness of any act or omission is not required.
- 6 h. Loiter. To delay, linger, remain or wander without any apparent purpose.
- 7 i. Multi-family Dwelling. A building designed for permanent residency for three
8 (3) or more families living independently of each other. This does not include
9 hotels, motels, or inns.
- 10 j. Owner's Authorized Agent. Any natural person, firm, association, joint
11 venture, joint stock company, partnership, organization, club, company,
12 corporation, business trust or the manager, lessee, agent, servant, officer or
13 employee authorized to act for the owner of real property.
- 14 k. Park. Any areas publicly owned, leased, controlled, maintained or managed by
15 the County or the Riverside County Regional Park and Open-Space District which
16 are open to public use for recreational, cultural and/or community service activities,
17 and include, but are not limited to, beaches, playgrounds, playfields, athletic courts,
18 and dog park recreation areas.
- 19 l. Permanent Resident. Any person who, as of a given date, obtained a legal right
20 to occupy or reside in a Duplex, Multi-family Dwelling, Single Family Dwelling,
21 Hotel, Motel or Inn for a period of more than thirty (30) consecutive days.
- 22 m. Property Owner. The owner of record of any parcel of real property as
23 designated on the County Assessor's tax roll, or a holder of a subsequently
24 recorded deed to the property and shall include any part owner, joint owner,
25 tenant, tenant in common, or joint tenant, of the whole or a part of such real
26 property.
- 27 n. Residential Exclusion Zone. Those areas located within two thousand (2,000)
28 feet of the nearest property line of the subject property to the nearest property line

1 of a Child Day Care Facility, public or private school (grades K through 12), or
2 Park in which a sex offender is prohibited from temporarily or permanently
3 residing.

- 4 o. Responsible Party. The Property Owner and/or the Owner's Authorized Agent.
- 5 p. Sex Offender. Any person convicted of a crime for which registration is required
6 pursuant to Section 290 of the California Penal Code.
- 7 q. Single Family Dwelling. A building designed for permanent residency located on
8 a single lot. Single Family Dwelling shall include a mobile home or manufactured
9 home. Single Family Dwelling shall not include any State licensed residential
10 facility which serves six or fewer persons.
- 11 r. Temporary Resident. Any person who, as of a given date, obtained a legal right
12 to occupy or reside in a Duplex, Multi-family Dwelling, Single Family Dwelling,
13 Hotel, Motel or Inn for a period of thirty (30) consecutive days or less.

14 Section 5. SEX OFFENDER RESIDENCY PROHIBITIONS.

- 15 a. A sex offender shall be prohibited from becoming a Permanent or Temporary
16 Resident in any Residential Exclusion Zone.
- 17 b. A sex offender shall be prohibited from becoming a Permanent or Temporary
18 Resident in a Single Family Dwelling if said dwelling is already occupied by a sex
19 offender, unless the other person is legally related by blood, marriage or adoption.
- 20 c. A sex offender shall be prohibited from becoming a Permanent or Temporary
21 Resident in a Duplex and/or Multi-family Dwelling unit if said dwelling unit is
22 already occupied by a sex offender, unless the other person is legally related by
23 blood, marriage or adoption.
- 24 d. A sex offender shall be prohibited from becoming a Permanent or Temporary
25 Resident in a Hotel, Motel, or Inn room if said room is already occupied by a sex
26 offender, unless the other person is legally related by blood, marriage or adoption.
- 27 e. A sex offender shall be prohibited from becoming a Permanent or Temporary
28 Resident in a Hotel, Motel or Inn if ten percent (10%) or up to a maximum of 6

1 units of the total dwelling units within the Hotel, Motel or Inn are already occupied
2 by sex offenders ("Occupied Units"). Notwithstanding the above, a sex offender
3 may be a Permanent or Temporary Resident of an Occupied Unit within a Hotel,
4 Motel or Inn if the Occupied Unit is occupied by another sex offender legally
5 related by blood, marriage or adoption.

6 Section 6. RESPONSIBLE PARTY PROHIBITIONS.

- 7 a. A Responsible Party shall be prohibited from knowingly renting or leasing a
8 Single Family Dwelling to more than one sex offender during any given period of
9 tenancy, unless those persons are legally related by blood, marriage or adoption.
- 10 b. A Responsible Party shall be prohibited from knowingly renting or leasing any
11 unit within a Duplex and/or Multi-family Dwelling to more than one sex offender
12 during any given period of tenancy, unless those persons are legally related by
13 blood, marriage or adoption.
- 14 c. A Responsible Party shall be prohibited from knowingly renting or leasing a guest
15 room in a Hotel, Motel, or Inn to more than one sex offender, unless those persons
16 are legally related by blood, marriage or adoption.

17 Section 7. SEX OFFENDER LOITERING PROHIBITIONS. No sex offender shall

18 loiter in a Child Safety Zone except as follows:

- 19 a. Where the sex offender is a minor, and he or she is present within three hundred
20 (300) feet of a Child Safety Zone while accompanied by a parent or legal
21 guardian.
- 22 b. Where the sex offender is present within three hundred (300) feet of a Child
23 Safety Zone only because he or she is accompanying a Related Minor to that site
24 and only for so long as necessary to provide care or supervision to the Related
25 Minor. As used herein, Related Minor means a minor to whom the sex offender
26 is a legal parent or guardian.
- 27 c. Where the sex offender is exercising First Amendment rights protected by the
28 United States Constitution, such as the free exercise of religion at a place of

1 worship, or freedom of speech or the right of assembly at a traditional public
2 forum.

3 Section 8. VIOLATIONS AND PENALTIES. Any person violating any provision of
4 this ordinance shall be deemed guilty of a misdemeanor offense and punished by a fine not exceeding one
5 thousand dollars (\$1000) or six months (6) in jail, or both. Such person shall be deemed guilty of a
6 separate offense for each and every day or portion thereof during which any violation of any of the
7 provisions of this ordinance is committed, continued, or permitted. The penalties herein are in addition to
8 any other remedies provided by law and the payment of any penalty herein shall not relieve a person of
9 the obligation to correct the violation.

10 Section 9. CRIMINAL PENALTIES DO NOT SATISFY ADMINISTRATIVE OR
11 CIVIL ACTIONS. Neither the arrest, prosecution, conviction, imprisonment, or payment of a fine for
12 a criminal violation of this ordinance shall satisfy or diminish the authority of the County to commence
13 civil or criminal proceedings under applicable local ordinances or State law as an alternative or in
14 addition to the proceedings set forth in this ordinance.

15 Section 10. CIVIL ACTIONS.

- 16 a. Civil actions include, but are not limited to, injunctive relief and civil and/or
17 administrative actions or proceedings as defined in State law and local ordinances.
- 18 b. Any person required to comply with the provisions of this ordinance shall be liable
19 in a civil action filed by the County in any court of competent jurisdiction in order
20 to enforce such provision and to pay reasonable abatement costs incurred by the
21 County and costs of the suit as a court may deem appropriate, including any and all
22 attorney fees incurred by the County in the prosecution of said enforcement action.

23 Section 11. ENFORCEMENT. The Sheriff, District Attorney, County Counsel and
24 Code Enforcement shall have the primary responsibility for enforcing this ordinance.

25 Section 12. COPY OF ORDINANCE TO CALIFORNIA DEPARTMENT OF
26 CORRECTIONS. The County of Riverside, Office of County Counsel is directed, on the effective date of
27 this ordinance, to send a copy of this ordinance to the California Department of Corrections and
28 Rehabilitation, Division of Adult Operations.

1 Section 13. COPY OF ORDINANCE TO REGISTERED SEX OFFENDERS. The
2 Riverside County Sheriff's Department is directed to send copies of this ordinance to any sex offender
3 who, on the effective date of this ordinance, is registered as living within the unincorporated area of the
4 County of Riverside.

5 Section 14. Nothing in this ordinance is intended to conflict with provisions of
6 California's Megan's Law as codified in Penal Code Sections 290.4 and 290.46.

7 Section 15. SEVERABILITY. If any provision, clause, sentence or paragraph of this
8 ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity
9 shall not affect the other provisions of this ordinance which can be given effect without the invalid
10 provision or application, and to this end, the provisions of this ordinance are hereby declared to be
11 severable.

12 Section 16. EFFECTIVE DATE. This ordinance is hereby declared to be an urgency
13 measure and shall take effect immediately upon its adoption. The findings in Section 1 of this ordinance
14 support the need for this urgency measure and are incorporated herein by reference. Additionally, in
15 accordance with the requirements of Government Code section 25123, subdivision (d), the Board of
16 Supervisors hereby declares that the provisions contained herein are necessary for the immediate
17 preservation of the public peace, health or safety for the following reasons: (1) the County of Riverside is
18 becoming an increasingly attractive place of residence for families with children; (2) there are numerous
19 registered sex offenders in the County of Riverside, including on parole; (3) the County is concerned with
20 recent occurrences, elsewhere in California, where multiple registered sex offenders have been residing
21 together in clusters and loitering near areas where children congregate, which, in the absence of this
22 ordinance, may pose a public safety threat to children and others within the County of Riverside; (4) in
23 the absence of the immediate effect of this ordinance, the safety of children and other potential victims in
24 many neighborhoods would also be threatened; (5) the property values in many neighborhoods would also
25 be substantially impacted.

26 ///

27 ///

28

BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman

ATTEST:
CLERK OF THE BOARD

By: _____
Deputy

(SEAL)

APPROVED AS TO FORM

July ____, 2010

By: _____
TIFFANY N. NORTH
Deputy County Counsel

G:\PROPERTY\KLIND\ORDINANCES\ORD. 901 URGENCY SEX OFFENDER PROHIBITIONS.DOC

1 ORDINANCE NO. 902

2 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
3 ESTABLISHING SEX OFFENDER RESIDENCY AND
4 LOITERING PROHIBITIONS

5
6 The Board of Supervisors of the County of Riverside ordains as follows:

7 Section 1. FINDINGS. Several studies conducted in California and throughout the
8 United States demonstrate that there is a substantial threat posed by sex offenders. A 1998 U.S.
9 Department of Justice study found that sex offenders are the least likely of all parolees to be cured and the
10 most likely to reoffend, and they prey on the most innocent members of our society. More than two-
11 thirds of the victims of rape and sexual assault are under the age of eighteen (18). In 2003, another U.S.
12 Department of Justice study found that over five percent of sex offenders were arrested for another crime
13 within three years of being paroled. The same study also found an estimated three percent of child
14 molesters were rearrested for another sex crime against a child within three years, and that most of the
15 children they were alleged to have molested were thirteen (13) years old or younger.

16 The Board of Supervisors is concerned about the public safety threat posed by the over
17 concentration of sex offenders living on one lot within the County, and is further concerned that this
18 public safety threat has not been adequately addressed by the provisions of Penal Code section 3003.5,
19 subdivisions (a) and (b), nor have such concerns been adequately addressed by the California Department
20 of Corrections and Rehabilitation of its Division of Parole, with respect to the placement, over
21 concentration and oversight of sex offender parolees within the County of Riverside. The County is
22 concerned about the significant public safety concerns posed by the presence of sex offenders near certain
23 locations within the County of Riverside that are frequented by children, such as day care facilities,
24 playgrounds, and other similar facilities, and is further concerned that such public safety concerns have
25 not been adequately addressed by the provisions of Penal Code section 3003.5, subdivisions (a) and (b).
26 The Board of Supervisors finds that given the immediate threat posed by sex offenders to the safety of
27 children and other potential victims in many neighborhoods, it must take urgent, additional steps to
28 monitor sex offenders, to protect the public from them, and to provide adequate penalties for and
safeguards against sex offenders, particularly those that prey on children.

1 Section 2. PURPOSE. The purpose of this ordinance is to better protect the children
2 of the County of Riverside by restricting the residency of any registered sex offender, whether or not on
3 parole or probation.

4 Section 3. AUTHORITY. This ordinance is adopted pursuant to Penal code section
5 3003.5, subdivision (c), which authorizes municipal jurisdictions to enact local ordinances that further
6 restrict the residency of any registered sex offender, whether or not on parole or probation.

7 Section 4. DEFINITIONS. As used in this ordinance, the following terms shall have
8 the following meanings:

- 9 a. Child. Any person under the age of eighteen (18) years of age.
- 10 b. Child Day Care Facility. Any State of California, Department of Social
11 Services ("CDSS") licensed facility, as that term is defined under Health and
12 Safety Code Section 1596.750, that provides non-medical care to children under
13 18 years of age in need of personal services, supervision, or assistance essential
14 for sustaining the activities of daily living or for the protection of the individual
15 on less than a twenty four (24) hour basis, including but not limited to day care
16 center, employer-sponsored child care center, family day care home, infant center,
17 preschool, extended-day care facility, or school-age child care center.
- 18 c. Child Safety Zone. Those areas located within a three hundred (300) foot radius
19 of a child care center, public or private school, park, public library, public
20 swimming or wading pool, commercial establishment that provides any area in or
21 adjacent to such establishment as a children's playground, school bus stop, or any
22 location that facilitates on the property classes or group activities for children.
- 23 d. Duplex. A residential land use for a building containing two dwelling units.
- 24 e. Hotel/Motel. A commercial land use for the rental of six (6) or more guest
25 rooms or suites for primarily temporary residency for a period of not more than
26 thirty (30) consecutive days.
- 27 f. Inn. A commercial land use for the rental of five (5) or fewer guest rooms or
28 suites primarily for temporary residency for a period of not more than thirty (30)
 consecutive days.

- 1 g. Knowingly. With knowledge of the existence of the facts in question.
2 Knowledge of the unlawfulness of any act or omission is not required.
- 3 h. Loiter. To delay, linger, remain or wander without any apparent purpose.
- 4 i. Multi-family Dwelling. A building designed for permanent residency for three
5 (3) or more families living independently of each other. This does not include
6 hotels, motels, or inns.
- 7 j. Owner's Authorized Agent. Any natural person, firm, association, joint
8 venture, joint stock company, partnership, organization, club, company,
9 corporation, business trust or the manager, lessee, agent, servant, officer or
10 employee authorized to act for the owner of real property.
- 11 k. Park. Any areas publicly owned, leased, controlled, maintained or managed by
12 the County or the Riverside County Regional Park and Open-Space District which
13 are open to public use for recreational, cultural and/or community service activities,
14 and include, but are not limited to, beaches, playgrounds, playfields, athletic courts,
15 and dog park recreation areas.
- 16 l. Permanent Resident. Any person who, as of a given date, obtained a legal right
17 to occupy or reside in a Duplex, Multi-family Dwelling, Single Family Dwelling,
18 Hotel, Motel or Inn for a period of more than thirty (30) consecutive days.
- 19 m. Property Owner. The owner of record of any parcel of real property as
20 designated on the County Assessor's tax roll, or a holder of a subsequently
21 recorded deed to the property and shall include any part owner, joint owner,
22 tenant, tenant in common, or joint tenant, of the whole or a part of such real
23 property.
- 24 n. Residential Exclusion Zone. Those areas located within two thousand (2,000)
25 feet of the nearest property line of the subject property to the nearest property line
26 of a Child Day Care Facility, public or private school (grades K through 12), or
27 Park in which a sex offender is prohibited from temporarily or permanently
28 residing.
- o. Responsible Party. The Property Owner and/or the Owner's Authorized Agent.

- 1 p. Sex Offender. Any person convicted of a crime for which registration is required
2 pursuant to Section 290 of the California Penal Code.
- 3 q. Single Family Dwelling. A building designed for permanent residency located on
4 a single lot. Single Family Dwelling shall include a mobile home or manufactured
5 home. Single Family Dwelling shall not include any State licensed residential
6 facility which serves six or fewer persons.
- 7 r. Temporary Resident. Any person who, as of a given date, obtained a legal right
8 to occupy or reside in a Duplex, Multi-family Dwelling, Single Family Dwelling,
9 Hotel, Motel or Inn for a period of thirty (30) consecutive days or less.

10 Section 5. SEX OFFENDER RESIDENCY PROHIBITIONS.

- 11 a. A sex offender shall be prohibited from becoming a Permanent or Temporary
12 Resident in any Residential Exclusion Zone.
- 13 b. A sex offender shall be prohibited from becoming a Permanent or Temporary
14 Resident in a Single Family Dwelling if said dwelling is already occupied by a sex
15 offender, unless the other person is legally related by blood, marriage or adoption.
- 16 c. A sex offender shall be prohibited from becoming a Permanent or Temporary
17 Resident in a Duplex and/or Multi-family Dwelling unit if said dwelling unit is
18 already occupied by a sex offender, unless the other person is legally related by
19 blood, marriage or adoption.
- 20 d. A sex offender shall be prohibited from becoming a Permanent or Temporary
21 Resident in a Hotel, Motel, or Inn room if said room is already occupied by a sex
22 offender, unless the other person is legally related by blood, marriage or adoption.
- 23 e. A sex offender shall be prohibited from becoming a Permanent or Temporary
24 Resident in a Hotel, Motel or Inn if ten percent (10%) or up to a maximum of 6
25 units of the total dwelling units within the Hotel, Motel or Inn are already occupied
26 by sex offenders ("Occupied Units"). Notwithstanding the above, a sex offender
27 may be a Permanent or Temporary Resident of an Occupied Unit within a Hotel,
28 Motel or Inn if the Occupied Unit is occupied by another sex offender legally
related by blood, marriage or adoption.

1 Section 6. RESPONSIBLE PARTY PROHIBITIONS.

- 2 a. A Responsible Party shall be prohibited from knowingly renting or leasing a
3 Single Family Dwelling to more than one sex offender during any given period of
4 tenancy, unless those persons are legally related by blood, marriage or adoption.
- 5 b. A Responsible Party shall be prohibited from knowingly renting or leasing any
6 unit within a Duplex and/or Multi-family Dwelling to more than one sex offender
7 during any given period of tenancy, unless those persons are legally related by
8 blood, marriage or adoption.
- 9 c. A Responsible Party shall be prohibited from knowingly renting or leasing a guest
10 room in a Hotel, Motel, or Inn to more than one sex offender, unless those persons
11 are legally related by blood, marriage or adoption.

12 Section 7. SEX OFFENDER LOITERING PROHIBITIONS. No sex offender shall

13 loiter in a Child Safety Zone except as follows:

- 14 a. Where the sex offender is a minor, and he or she is present within three hundred
15 (300) feet of a Child Safety Zone while accompanied by a parent or legal
16 guardian.
- 17 b. Where the sex offender is present within three hundred (300) feet of a Child
18 Safety Zone only because he or she is accompanying a Related Minor to that site
19 and only for so long as necessary to provide care or supervision to the Related
20 Minor. As used herein, Related Minor means a minor to whom the sex offender
21 is a legal parent or guardian.
- 22 c. Where the sex offender is exercising First Amendment rights protected by the
23 United States Constitution, such as the free exercise of religion at a place of
24 worship, or freedom of speech or the right of assembly at a traditional public
25 forum.

26 Section 8. Section 8. VIOLATIONS AND PENALTIES. Any person violating

27 any provision of this ordinance shall be deemed guilty of a misdemeanor offense and punished by a fine
28 not exceeding one thousand dollars (\$1000) or six months (6) in jail, or both. Such person shall be
deemed guilty of a separate offense for each and every day or portion thereof during which any violation

1 of any of the provisions of this ordinance is committed, continued, or permitted. The penalties herein are
2 in addition to any other remedies provided by law and the payment of any penalty herein shall not relieve
3 a person of the obligation to correct the violation.

4 Section 9. CRIMINAL PENALTIES DO NOT SATISFY ADMINISTRATIVE OR
5 CIVIL ACTIONS. Neither the arrest, prosecution, conviction, imprisonment, or payment of a fine for
6 a criminal violation of this ordinance shall satisfy or diminish the authority of the County to commence
7 civil or criminal proceedings under applicable local ordinances or State law as an alternative or in
8 addition to the proceedings set forth in this ordinance.

9 Section 10. CIVIL ACTIONS.
10 a. Civil actions include, but are not limited to, injunctive relief and civil and/or
11 administrative actions or proceedings as defined in State law and local ordinances.
12 b. Any person required to comply with the provisions of this ordinance shall be liable
13 in a civil action filed by the County in any court of competent jurisdiction in order
14 to enforce such provision and to pay reasonable abatement costs incurred by the
15 County and costs of the suit as a court may deem appropriate, including any and all
16 attorney fees incurred by the County in the prosecution of said enforcement action.

17 Section 11. ENFORCEMENT. The Sheriff, District Attorney, County Counsel and
18 Code Enforcement shall have the primary responsibility for enforcing this ordinance.

19 Section 12. COPY OF ORDINANCE TO CALIFORNIA DEPARTMENT OF
20 CORRECTIONS. The County of Riverside, Office of County Counsel is directed, on the effective date of
21 this ordinance, to send a copy of this ordinance to the California Department of Corrections and
22 Rehabilitation, Division of Adult Operations.

23 Section 13. COPY OF ORDINANCE TO REGISTERED SEX OFFENDERS. The
24 Riverside County Sheriff's Department is directed to send copies of this ordinance to any sex offender
25 who, on the effective date of this ordinance, is registered as living within the unincorporated area of the
26 County of Riverside.

27 Section 14. Nothing in this ordinance is intended to conflict with provisions of
28 California's Megan's Law as codified in Penal Code Sections 290.4 and 290.46.

Section 15. SEVERABILITY. If any provision, clause, sentence or paragraph of this

1 ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity
2 shall not affect the other provisions of this ordinance which can be given effect without the invalid
3 provision or application, and to this end, the provisions of this ordinance are hereby declared to be
4 severable.

5 Section 16. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after
6 its adoption.

7
8 BOARD OF SUPERVISORS OF THE COUNTY
9 OF RIVERSIDE, STATE OF CALIFORNIA

10 By: _____
11 Chairman

11 ATTEST:
12 CLERK OF THE BOARD

13 By: _____
14 Deputy

15
16 (SEAL)

17 APPROVED AS TO FORM

18 July ____, 2010

19
20 By: _____
21 TIFFANY N. NORTH
22 Deputy County Counsel

23 G:\PROPERTY\KLIND\ORDINANCES\ORD. 902 SEX OFFENDER PROHIBITIONS.DOC