

ORDINANCE NO. 1606(14)

**An Ordinance of the City of Lompoc, State of California,
Amending Portions of Chapter 9.44 of the Lompoc Municipal Code
Regarding Loitering by Registered Sex Offenders to Align
with California Penal Code Section 653b**

WHEREAS, on May 1, 2012, the City Council of the City of Lompoc adopted Ordinance No. 1583(12), enacting Lompoc Municipal Code (“LMC”) Chapter 9.44, entitled “Registered Sex Offender Residency Prohibitions” (the “Ordinance”); and

WHEREAS, among other restrictions, a portion of Ordinance No. 1583(12), now codified as LMC sections 9.44.010-9.44.020, prohibits “loitering” by a registered sex offender in a “child safety zone”; and

WHEREAS, at the state level, the California legislature has enacted numerous regulations on the residency and activities of registered sex offenders, including, but not limited to, the California Penal Code subsection 653b, which prohibits registered sex offenders from loitering “about any school or public place at or near which children attend or normally congregate” (Cal. Penal Code § 653b(a)); and

WHEREAS, on January 10, 2014, the Fourth Appellate District of the California Court of Appeal issued a published opinion in the matter of *People v. Nguyen* (2014) 222 Cal. App. 4th 1168 (“*Nguyen*”) which: (1) determined the state of California had “created a standardized, statewide system” to regulate sex offenders and to “protect victims and potential victims from future harm” and (2) held a local ordinance which exceeded the state law standard and made it a misdemeanor for registered sex offenders to enter a city park was “preempted” by California law; and

WHEREAS, the California Supreme Court declined to review the *Nguyen* decision on April 28, 2014, making that opinion citable as precedent in the State of California; and

WHEREAS, in light of the *Nguyen* decision and the Court of Appeals’ binding determination the California legislature has established a “statewide system” for regulating sex offenders, the City Council deems it appropriate to amend the City’s Ordinance to align with state law standards for loitering by registered sex offenders.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY LOMPOC, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and incorporated herein by this reference.

SECTION 2. The term “Child Safety Zone,” as currently defined in LMC section 9.44.010, “Definitions,” is hereby stricken in its entirety.

SECTION 3. The term “Loitering,” as currently defined in LMC section 9.44.010, “Definitions,” is hereby amended to read as follows:

Loitering. “Loitering” means to commit any act as defined in California Penal Code § 653b.

SECTION 4. LMC section 9.44.020 is hereby amended to read as follows:

A registered sex offender shall be prohibited from loitering in or about a school or public place at or near which children attend or normally congregate.

SECTION 5. This ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this ordinance and shall cause this ordinance to be posted in the manner required by law.

This Ordinance was introduced on July 15, 2014, and duly adopted by the City Council of the City of Lompoc at its regular meeting on _____, 2014, by the following electronic vote:

PASSED and ADOPTED this __ day of ____ 2014, by the following electronic vote:

AYES: Council Member(s)
NOES: Council Member(s)
ABSENT: Council Member(s)

John H. Linn, Mayor
City of Lompoc

ATTEST:

Stacey Alvarez, City Clerk
City of Lompoc