

ORDINANCE NO. 14-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA REPEALING CHAPTER XIII TO TITLE 11 OF THE COSTA MESA MUNICIPAL CODE, RELATING TO SEX OFFENDERS PROHIBITED FROM CITY PARKS AND SPORTS FACILITIES

WHEREAS, on May 1, 2012, the City Council of the City of Costa Mesa adopted Ordinance No. 12-3, adding Chapter XIII (Sex Offenders Prohibited From Entering Parks and Sports Facilities) of Title 11 (Offenses – Miscellaneous), which prohibited all registered sex offenders, pursuant to Section 290 of the California Penal Code, from entering City parks and City sports facilities, as defined; and

WHEREAS, on January 10, 2014, the Fourth Appellate District of the California Court of Appeal, in People v. Nguyen, 222 Cal. App. 4th 1168 (2014), held that a local ordinance making it a misdemeanor for registered sex offenders to enter a park where children regularly gather without permission from law enforcement is preempted by state law; and

WHEREAS, Section 11-203 of the Costa Mesa Municipal Code prohibits registered sex offenders from entering parks within the City of Costa Mesa and is most likely also preempted by state law.

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF COSTA MESA DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter XIII of Title 11 of the Costa Mesa Municipal Code is hereby repealed.

Section 2. If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase or word not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

Section 3. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published and/or posted in a manner required by law. The Ordinance will become effective 30-days from its adoption.

PASSED AND ADOPTED this 4th day of March, 2014.

James M. Righeimer, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 14-03 was introduced at a regular meeting of said City Council held on the 18th day of February, 2014, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the 4th day of March, 2014, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 5th day of March, 2014.

Brenda Green, City Clerk