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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN DOE #1 and JOHN DOE #2,
Plaintiffs,
v.
CITY OF SAN DIEGO,
Defendant.

Case No. 17-cv-1581-BAS-WVG
**ORDER GRANTING
PLAINTIFFS’ MOTION FOR
PARTIAL SUMMARY
JUDGMENT**
[ECF No. 24]

20 Plaintiffs John Doe #1 and John Doe #2 have filed a motion for partial
21 summary judgment. (“MSJ,” ECF No. 24.) Plaintiffs seek summary judgment on
22 the first claim in their complaint: their state law preemption claim. Defendant City
23 of San Diego opposes the Motion. (“Opp’n,” ECF No. 31.) The Court held oral
24 argument on the Motion on November 19, 2019. For the reasons stated below, the
25 Court **GRANTS** Plaintiffs’ Motion.

26 **I. BACKGROUND**

27 On November 7, 2006, California voters passed Proposition 83, “The Sexual
28 Predator Punishment and Control Act: Jessica’s Law.” Among other things,

1 Proposition 83 amended California Penal Code section 3003.5, “a statute setting
2 forth restrictions on where certain sex offenders subject to the lifetime registration
3 requirement of section 290 may reside.” *In re E.J.*, 47 Cal. 4th 1258, 1263 (2010).¹
4 As is relevant here and as provided in more detail below, Proposition 83 added
5 subdivisions (b) and (c) to California Penal Code section 3003.5.

6 On April 13, 2008, the San Diego City Council adopted the Child Protection
7 Act: San Diego Municipal Code, Chapter 5, Article 8, Division 6, sections 58.0601–
8 58.0607 (hereinafter, the “Ordinance”). The Council sought to provide “additional
9 restrictions” beyond those provided for in Jessica’s Law. Ordinance § 58.0601.
10 Specifically, the Ordinance imposes additional residency restrictions on registered
11 sex offenders. *See id.* § 58.0602 (providing it is unlawful for a registered sex offender
12 to reside within 2000 feet of an: amusement center, arcade, child day care facility,
13 library, playground, park, and school). The Ordinance applies to all “Registered sex
14 offenders,” which is defined as “any person required to register pursuant to California
15 Penal Code section 290.” *Id.* § 58.0602. Defendant City of San Diego admits that
16 its Ordinance applies to all registered sex offenders, not just those who are on parole.
17 (Opp’n at 11.)

18 Plaintiffs John Doe #1 and John Doe #2 are two California residents who are
19 required to register as sex offenders pursuant to California Penal Code section 290,
20 *et seq.* (“Compl.,” ECF No. 1, at ¶¶ 6–7.) John Doe #1 resides in the City of San
21 Diego, and John Doe #2 intends to establish a new lawful permanent or temporary
22 residence in the City of San Diego. (*Id.*) Therefore, John Doe #1 alleges he is subject
23 to the Ordinance, and John Doe #2 alleges the Ordinance precludes him from
24 establishing a residence in the City of San Diego. (*Id.*) Plaintiffs challenge the
25 constitutionality of the Ordinance on two grounds. As relevant here, Plaintiffs argue
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27 ¹ Penal Code section 290 “imposes upon individuals convicted of certain sex offenses a lifetime
28 requirement that they register with law enforcement in the communities in which they reside.” *In re E.J.*, 47 Cal. 4th at 1263.

1 preemption—that “California state law preempts local governments from imposing
2 residency restrictions on [registered sex offenders] who are not serving terms of
3 parole.” (MSJ at 1.)

4 **II. LEGAL STANDARD**

5 “A party may move for summary judgment, identifying each claim or defense
6 —or the part of each claim or defense—on which summary judgment is sought. The
7 court shall grant summary judgment if the movant shows that there is no genuine
8 dispute as to any material fact and the movant is entitled to judgment as a matter of
9 law.” Fed. R. Civ. P. 56(a).

10 **III. ANALYSIS**

11 **A. Requests for Judicial Notice**

12 Both parties request the Court take judicial notice of various documents. (ECF
13 Nos. 24-2, 31-1.) Pursuant to Federal Rule of Evidence 201, “[a] court shall take
14 judicial notice if requested by a party and supplied with the necessary information.”
15 Fed. R. Evid. 201(d). “A judicially noticed fact must be one not subject to reasonable
16 dispute in that it is . . . capable of accurate and ready determination by resort to
17 sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). A
18 court may take judicial notice of “matters of public record.” *Mack v. S. Bay Beer*
19 *Distribs.*, 798 F.2d 1279, 1282 (9th Cir. 1986).

20 The Court first turns to Plaintiffs’ requests. Plaintiffs first request the Court
21 judicially notice San Diego’s Ordinance. The Court grants judicial notice of the
22 Ordinance. *Tollis, Inc. v. County of San Diego*, 505 F.3d 935, 938 n.1 (9th Cir. 2007)
23 (“Municipal ordinances are proper subjects for judicial notice.”). Further, the Court
24 grants Plaintiffs’ request to notice two decisions in other cases. *See Holder v.*
25 *Holder*, 305 F.3d 854, 866 (9th Cir. 2002) (taking judicial notice of opinion and briefs
26 filed in another proceeding); *United States ex rel. Robinson Rancheria Citizens*
27 *Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (holding courts “may take
28 notice of proceedings in other courts . . . if those proceedings have a direct relation

1 to matters at issue” (citation omitted)). Plaintiffs’ other requests are for the Court to
2 judicially notice: (1) statements made by members of the San Diego City Council
3 during its public meeting on April 2, 2017; (2) a document published by the
4 California Department of Justice, and (3) a report published by the California Sex
5 Offender Management Board. Defendant objects to the Court noticing these
6 documents. As the Court did not consider these documents in analyzing Plaintiffs’
7 Motion, the Court denies the requests as moot.

8 Defendant requests the Court notice an order issued earlier in this case by
9 Judge Moskowitz before the case was transferred to this Court. A court need not
10 judicially notice orders issued on the docket in the present case, so the Court denies
11 the request as moot. *See Henricks v. Cal. Pub. Utils. Comm’n*, No. 17CV2177-MMA
12 (MDD), 2018 WL 2287346, at *8 (S.D. Cal. May 18, 2018) (citing *Asdar Grp. v.*
13 *Pillsbury, Madison, & Sutro*, 99 F.3d 289, 290 n.1 (9th Cir. 1996)). Defendant next
14 asks that the Court notice three matters of public record: (1) Supplement to the
15 Statement of Vote from the General Election on November 7, 2006, (2) California
16 General Election Official Voter Information Guide for the November 7, 2006,
17 General Election, and (3) Article 8 of the San Diego Municipal Code. The Court
18 grants the requests and notices these documents as they are matters of public record.

19 **B. Discussion**

20 Section 3003.5 of the Penal Code provides:

21 (a) Notwithstanding any other provision of law, when a person is
22 released on parole after having served a term of imprisonment in state
23 prison for any offense for which registration is required pursuant to
24 Section 290, that person may not, during the period of parole, reside in
25 any single family dwelling with any other person also required to
26 register pursuant to Section 290, unless those persons are legally related
27 by blood, marriage, or adoption. For purposes of this section, “single
28 family dwelling” shall not include a residential facility which serves six
or fewer persons.

(b) Notwithstanding any other provision of law, it is unlawful for
any person for whom registration is required pursuant to Section 290 to

1 reside within 2000 feet of any public or private school, or park where
2 children regularly gather.

3 (c) Nothing in this section shall prohibit municipal jurisdictions
4 from enacting local ordinances that further restrict the residency of any
5 person for whom registration is required pursuant to Section 290.

6 Cal. Pen. Code § 3003.5.

7 San Diego enacted its Ordinance pursuant to what it deemed to be power to do
8 so under section 3003.5(c). At first blush and when read without any context,
9 subsection (c) seems to give broad power to a city to enact any law that restricts any
10 registered sex offender. The City did just that, creating an ordinance that imposes
11 additional residency restrictions on all registered sex offenders. Of course, the
12 background and surrounding case law make the issue of whether San Diego may
13 lawfully do so much more nuanced. Plaintiffs' first argument is that California has
14 established a comprehensive scheme for regulating sex offenders and thus has
15 occupied the field.

16 **1. Preemption**

17 The first part of this motion turns on one legal issue: preemption. "Preemption
18 is predominantly a legal question, resolution of which would not be aided greatly by
19 development of a more complete factual record." *Hotel Emps. & Rest. Emps. Int'l*
Union v. Nev. Gaming Comm'n, 984 F.2d 1507, 1513 (9th Cir. 1993).

20 The California Constitution allows cities and counties to enact and enforce
21 local ordinances so long as they are "not in conflict" with the state's "general laws."
22 Cal. Const. Art. XI § 7. "If otherwise valid local legislation conflicts with state law,
23 it is preempted by such law and is void." *Sherwin-Williams Co. v. City of Los*
Angeles, 4 Cal. 4th 893, 897 (1993) (quoting *Candid Enters., Inc. v. Grossmont*
Union High Sch. Dist., 39 Cal. 3d 878, 885 (1985)). "A conflict exists if the local
24 legislation 'duplicates, contradicts, or enters an area fully occupied by general law,
25 either expressly or by legislative implication.'" *Id.* (quoting *Candid*, 39 Cal. 3d at
26 885). "A local ordinance *enters a field fully occupied* by state law in either of two
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1 situations—when the Legislature ‘expressly manifest[s]’ its intent to occupy the legal
2 area or when the Legislature ‘impliedly’ occupies the field.” *O’Connell v. City of*
3 *Stockton*, 41 Cal. 4th 1061, 1068 (2007) (quoting *Sherwin-Williams*, 4 Cal. 4th at
4 898). A Legislature impliedly preempts a field in three situations:

5 when “(1) the subject matter has been so fully and completely covered
6 by general law as to clearly indicate that it has become exclusively a
7 matter of state concern; (2) the subject matter has been partially covered
8 by general law couched in such terms as to indicate clearly that a
9 paramount state concern will not tolerate further or additional local
10 action; or (3) the subject matter has been partially covered by general
11 law, and the subject is of such a nature that the adverse effect of a local
ordinance on the transient citizens of the state outweighs the possible
benefit to the locality.”

12 *Id.* (quoting *Sherwin-Williams*, 4 Cal. 4th at 898). “If the subject matter or field of
13 the legislation has been fully occupied by the state, there is no room for
14 supplementary or complementary local legislation, even if the subject were otherwise
15 one properly characterized as a ‘municipal affair.’” *People v. Nguyen*, 222 Cal. App.
16 4th 1168, 1174 (2014) (citations omitted).

17 Plaintiffs rely heavily on *People v. Nguyen*, 222 Cal. App. 4th 1168 (2014),
18 where the plaintiff there, a sex offender required to register under Penal Code section
19 290, contested a local ordinance. The plaintiff argued the local ordinance was invalid
20 because “California’s comprehensive statutory scheme governing the registration
21 and regulation of sex offenders occupied the field and therefore preempted local
22 ordinances imposing similar requirements.” *Id.* at 1173. The court evaluated the
23 local and state ordinances because “the facts and circumstances of each case
24 determine whether the Legislature established a comprehensive statutory scheme that
25 impliedly preempts all local regulation on the subject.” *Id.* at 1177. The court “must
26 look to state law to define the relevant field when determining whether the
27 Legislature has fully occupied the area by enacting a comprehensive statutory
28 scheme.” *Id.* at 1178. The court evaluated the Sex Offender Punishment, Control,

1 and Containment Act of 2006, which is wide-ranging, comprehensive, and contains
2 sixty sections. *Id.* at 1180. The court concluded that “the Legislature established a
3 complete system for regulating a sex offender’s daily life and manifested a legislative
4 intent to fully occupy the field.” *Id.* at 1181.

5 The *Nguyen* court recognized subsection (c) of section 3003.5. It noted that
6 the subsection “expressly authorizes local regulation” but is “a voter-created
7 exception” and therefore reflects the voters’ intent, not the Legislature’s intent. *Id.*
8 at 1185 n.5. The subsection “in no way undermines the Legislature’s intent to fully
9 occupy the field. If anything, the initiative implicitly recognizes the statutory scheme
10 preempts local regulation unless the voters carve out an exception.” *Id.*

11 One federal court has followed *Nguyen*’s preemption analysis. In *Clymer v.*
12 *City of Adelanto*, CV 16-2535 JGB (JCx), 2017 WL 10591757, at *5 (C.D. Cal. Dec.
13 18, 2017), a case remarkably similar to this case, the court evaluated *Nguyen* and
14 held “the Legislature intended to fully occupy the field of a sex offender’s daily life
15 which includes residency restrictions.” Therefore “California’s statutory scheme
16 occupies the field of sex offender residency restrictions.” *Id.*

17 Defendant here disagrees with *Nguyen*’s and *Clymer*’s findings of preemption
18 and argues subsection (c) was added as a “clear attempt to avoid the appearance of
19 preemption.” (Opp’n at 10.) Defendant argues that section 3003.5(c) “explicitly
20 recogniz[es] the power of local authorities to enact local ordinances that further
21 restrict the residency of registered sex offenders.” (*Id.* at 14); *see People ex rel.*
22 *Deukmejian v. County of Mendocino*, 36 Cal. 3d 476, 485 (1984) (“Preemption by
23 implication of legislative intent may not be found when the Legislature has expressed
24 its intent to permit local regulations.”). Plaintiffs agree that subsection (c) “presents
25 a limited exception to the otherwise preempted field of sex offender regulation which
26 authorizes some local control over residency.” (“Reply,” ECF No. 33, at 10.) But
27 Plaintiffs argue this permission does not mean the field is not preempted.

28 Indeed, simply because there is a carved-out, voter-created exception allowing

1 local regulations does not mean that the field cannot still be preempted. *See Nguyen*,
2 222 Cal. App. 4th at 1185 n.5; *see also Cal. Tow Truck Ass’n v. City & Cty. of San*
3 *Francisco*, 225 Cal. App. 4th 846, 849 (2014) (noting “[s]tate law generally preempts
4 local law in the field of traffic control” but recognizing “[t]here are exceptions” to
5 the preemption and the “Legislature has allowed local regulation of tow truck
6 companies and drivers”); *Housing Auth. v. Van de Kamp*, 223 Cal. App. 3d 109, 117
7 (1990) (holding the “Legislature has preempted the field to preclude local regulation”
8 in the area of dissemination of criminal records but noting the “statutory scheme
9 provides narrow exceptions to the general rule” prohibiting disclosure of criminal
10 records). Here, the penal code authorizes local regulation specifically, and the issue
11 is just how far the local regulation may go. And, as the *Nguyen* court noted, it is a
12 voter-created exception and does not necessarily preclude a finding of state law
13 preemption.

14 The Court analyzes preemption by reviewing the purpose and context of
15 Jessica’s Law. “Where the Legislature has adopted statutes governing a particular
16 subject matter, its intent with regard to occupying the field to the exclusion of all
17 local regulation is not to be measured alone by the language used but by the whole
18 purpose and scope of the legislative scheme.” *Am. Fin. Servs. Ass’n v. City of*
19 *Oakland*, 34 Cal. 4th 1239, 1252 (2005) (quoting *Tolman v. Underhill*, 39 Cal. 2d
20 708, 712 (1952)). Here, Jessica’s Law provides that: “The Legislature finds and
21 declares that a comprehensive system of risk assessment, supervision, monitoring
22 and containment for registered sex offenders residing in California communities is
23 necessary to enhance public safety and reduce the risk of recidivism posed by these
24 offenders.” Cal. Pen. Code § 290.03(a) (emphasis added). In creating Jessica’s Law,
25 the Legislature created “a standardized, statewide system to identify, assess, monitor
26 and contain known sex offenders for the purpose of reducing the risk of recidivism
27 posed by these offenders, thereby protecting victims and potential victims from
28 future harm.” *Id.* at § 290.03(b) (emphasis added). Thus, the text of Jessica’s Law

1 itself shows preemption. And, as the *Nguyen* court noted, Jessica’s Law “contains
2 more than 60 sections and made numerous changes to the statutes regulating sex
3 offenders, including adding or amending several . . . statutes.” 222 Cal. App. 4th at
4 1181. This shows an intention by the Legislature to adopt a “general scheme” for
5 the regulation of sex offender registration. *Id.*

6 The Court therefore finds that state law fully occupies the field of sex offender
7 registration. *See id.* at 1181; *Clymer*, 2017 WL 10591757, at *6. However, Jessica’s
8 Law does allow municipalities to enact certain ordinances in this preempted field.
9 *See* Cal. Pen. Code § 3003.5(c). The issue becomes whether San Diego’s Ordinance
10 is permissible under the scope of what Jessica’s Law allows.

11 2. “Any Person”

12 The phrase “any person” is used throughout section 3003.5, and the final
13 subsection of the law provides that municipal jurisdictions may enact “local
14 ordinances that further restrict the residency of any person for whom registration is
15 required pursuant to Section 290.” § 3003.5(c) (emphasis added). The parties
16 disagree whether this term encompasses all sex offenders, or only those on parole.
17 The Ordinance applies to all “Registered sex offenders,” which is defined as “any
18 person required to register pursuant to California Penal Code section 290.”
19 Ordinance § 58.0602. As noted above, this covers all registered sex offenders, even
20 those who are not on parole.

21 Plaintiffs argue section 3003.5 applies only to registered sex offenders on
22 parole. Thus, when the statute uses the term “any person,” it applies to only those
23 on parole. Plaintiffs’ position is supported by authority. *See Clymer*, 2017 WL
24 10591757, at *5 (holding “the state law applies only to parolees”); *People v. Lynch*,
25 2 Cal. App. 5th 524, 528 (2016) (holding section 3003.5(b) does not apply to sex
26 offenders on probation, but only to sex offenders on parole); *see also Weiss v. City*
27 *of Maywood*, No. VC066407, at 3 (Cal. Super. Ct. May 31, 2018) (determining that
28 Jessica’s Law “authorizes local regulation for sex offenders released on parole” and

1 that the relevant local ordinance exceeded the scope of Jessica’s Law because the
2 ordinance applied to all sex offenders, “regardless of whether that person is on parole
3 or probation”).

4 This would not be the first time the phrase “any person” has been construed to
5 not refer to just any person. In *In re Derrick B.*, 39 Cal.4th 535, 544 (2006), the state
6 Supreme Court found that the phrase “any person” refers to adult offenders in one
7 subsection, but the same phrase refers to juvenile offenders in another subsection.
8 The court reasoned, “the meaning of the phrase ‘any person’ depends on its context.”
9 *Id.* Of course, the *In re Derrick B.* court was not interpreting the phrase in the context
10 of section 3003.5, but the analysis is notable nonetheless.

11 *People v. Lynch*, 2 Cal. App. 5th 524 (2016), also strongly supports Plaintiffs’
12 position. In short, the *Lynch* court found that the use of the phrase “any person” in
13 3003.5(b) is limited “to the class of persons identified in [3003.5(a)]—parolees.” *Id.*
14 at 528. Defendant argues *Lynch* was wrongly decided, pointing out that *Lynch* relied
15 on a phrase from the California Supreme Court case *In re E.J.*, 47 Cal. 4th 1258
16 (2010). Defendant argues that the *Lynch* court took the phrase “out of context” and
17 therefore *Lynch* is a faulty opinion. (Opp’n at 23.)

18 The Court disagrees. *In re E.J.* involved four petitioners who were “paroled
19 registered sex offender[s]” challenging enforcement of the residency restrictions
20 against them as a ground for revocation of their parole. The state Supreme Court
21 noted that section 3003.5(b) is “obviously intended to apply to ‘persons released on
22 parole.’” 47 Cal. 4th at 1271 (quoting Cal. Penal Code § 3003.5(a)). This phrase
23 from *In re E.J.* was then relied on by the *Lynch* court, which analyzed the context
24 and entirety of the Penal Code statute. 2 Cal. App. 5th at 528. It reasoned that
25 Jessica’s Law amended section 3003.5, which was an existing statute regulating sex
26 offender registrants that was applicable only to parolees. *Id.* The newly amended
27 law retained the original language of section 3003.5, now codified as section
28 3003.5(a), which limits its coverage to “a person [who] is released on parole after

1 having served a term of imprisonment in state prison for any offense for which
2 registration is required pursuant to Section 290,” i.e., a parolee. *Id.* (quoting Cal.
3 Penal Code § 3003.5(a)). The drafters of Jessica’s Law placed (b) immediately
4 following (a). *Id.* The *Lynch* court reasoned that this placement

5 indicates the intent of Proposition 83’s drafters to align and limit the
6 “any person” reference in subdivision (b) to the class of persons
7 identified in subdivision (a)—parolees. Therefore, the language
8 of section 3003.5 as a whole indicates the subdivision (b) residency
9 restriction applies, as does subdivision (a), only to parolees for the
period of their parole term.

10 *Id.* This Court has no reason to disagree and finds the reasoning of *Lynch* to be
11 strong. *See id.*

12 Further, *Lynch* referenced *People v. Mosley*, 60 Cal. 4th 1044 (2015). *Mosley*
13 involved very different issues than the present case, however, it is relevant in that the
14 court there noted that the Attorney General representing the State of California
15 “posit[ed] that the residency restrictions of section 3003.5(b) apply only to paroled
16 sex offender registrants while they are on parole, and have no effect on nonparolee
17 registrants.” *Id.* at 1054. As the dissent in *Mosley* makes clear, the opinion does not
18 decide “whether section 3003.5(b) applies to sex offenders who are not on parole”
19 and instead assumes so based on the Attorney General’s opinion. *Id.* at 1071 (Liu,
20 J., dissenting). Hence, this Court, and the *Lynch* court, cite *Mosely* not for any
21 decision made by the state Supreme Court, but to show that the Attorney General
22 took the position that 3003.5(b) applies only to those on parole.

23 The court in *Clymer* evaluated the opinion in *Lynch* and found that the decision
24 shows “the state court engaged in its own interpretation of legislative intent.” 2017
25 WL 10591757, at *7. The court further found “it is unnecessary, and would be
26 inappropriate, for this Court to undertake an interpretation anew.” *Id.* And although
27 the *Lynch* court evaluated subsection (b) and not section (c), the *Clymer* court
28 determined it must interpret statutes so that they are “consistent with each other” and

1 a word “accorded a particular meaning in one part or portion of a law, should be
2 accorded the same meaning in other parts or portions of the law.” *Id.* (quoting
3 *Nickelsberg v. Workers’ Comp. Appeals Bd.*, 54 Cal. 3d 288, 298 (1991) and *Miranda*
4 *v. Nat’l Emergency Servs., Inc.*, 35 Cal. App. 4th 894, 905 (1995)). The *Clymer* court
5 therefore found “any person” under subdivision (c) to refer only to parolees. *Id.*

6 This Court finds the analyses in *Lynch* and *Clymer* to be strong and well-
7 reasoned. The Court is not convinced by Defendant’s argument that the reader is to
8 “ignore the other provisions of Penal Code Section 3003.5” when analyzing
9 subsection (c). (*See* Opp’n at 26.) Instead, the subsection must be read in context,
10 and that context defines the phrase “any person.” Defendant lays out various reasons
11 why it believes the intent of the Legislature was for Jessica’s Law to apply to all sex
12 offenders, not just those on parole. Defendant ignores one important point: Jessica’s
13 Law amended an existing statute regulating sex offender registrants that was
14 applicable only to parolees. Before Proposition 83, only subsection (a) of 3003.5
15 existed, regulating only persons “released on parole after having served a term of
16 imprisonment in state prison for any offense for which registration is required
17 pursuant to Section 290.” *See* Cal. Pen. Code § 3003.5 (1998), *amended by*
18 *Proposition 83 § 21* (2006). Defendant’s argument that the Court is dealing with “a
19 statute which clearly declares itself applicable to ‘any’ registered sex offender” is
20 simply not true. (*See* Opp’n at 16.) The prior version of section 3003.5, which is
21 now codified as subsection (a), refers to a specific class of persons, then commands,
22 “that person may not” reside in certain places. Cal. Pen. Code § 3003.5(a) (emphasis
23 added). This is not ambiguous.

24 And there is no indication that subsections 3003.5(b) and (c) expand the
25 categories of those covered by the original law. They were not placed following
26 subsection (a) by accident. The subsections do not simply “happen[] to be located in
27 a chapter of the Penal Code relating largely to parole” as Defendant suggests. (*See*
28 Opp’n at 16.) Instead, the context cannot be ignored, and the context shows the

1 subsections are part of a statute regulating parolees. “If the language is clear and
2 unambiguous there is no need for construction, nor is it necessary to resort to indicia
3 of the intent of the Legislature to interpret the statute.” *Lungren v. Deukmejian*, 45
4 Cal. 3d 727, 735 (1988). “The meaning of a statute may not be determined from a
5 single word or sentence; the words must be construed in context, and provisions
6 relating to the same subject matter must be harmonized to the extent possible.” *Id.*
7 Analyzing the phrase “any person” in context, it is clear that section 3003.5 is meant
8 to apply only to registered sex offenders who are on parole. This extends to section
9 3003.5(c).


10 In sum, California state law fully occupies the field of sex offender registration.
11 And while Jessica’s Law allows municipalities to enact their own ordinances, this
12 permission is limited to what is described in section 3003.5(c). San Diego’s
13 Ordinance, which provides residency restrictions on more people than only sex
14 offenders on parole, enters a field fully occupied by state law and exceeds the scope
15 of what is permitted by state law. The Ordinance is preempted by state law and is
16 void. *See O’Connell*, 41 Cal. 4th at 1065 (holding any city ordinance that conflicts
17 with state law is preempted and thus void).

18 **IV. CONCLUSION**

19 For the foregoing reasons, the Court **GRANTS** Plaintiffs’ motion for partial
20 summary judgment. Within seven days of the date of this Order, the parties are to
21 file a joint status report indicating whether this case is now resolved and if not, how
22 they intend to proceed.

23 **IT IS SO ORDERED.**

24
25 **DATED: November 19, 2019**


Hon. Cynthia Bashant
United States District Judge

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