

ORDINANCE 2006-10-04

AN ORDINANCE OF THE CITY OF WESTON, TEXAS, DEFINING CERTAIN TERMS; MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 1000 FEET OF CERTAIN PREMISES; PROVIDING EXCEPTIONS TO THE ORDINANCE; PROHIBITING PROPERTY OWNERS FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS; PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL OTHER ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Weston, Texas is a Type A general-law municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Mayor and City Council of the City of Weston, Texas, are deeply concerned about the numerous and recent occurrences in our state and elsewhere, whereby convicted sex offenders who have been released from custody repeat the unlawful acts for which they had been originally convicted; and

WHEREAS, the Mayor and City Council of the City of Weston, Texas, find from the evidence the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and

WHEREAS, the City is becoming an increasingly attractive place for younger families with small children; and

WHEREAS, the Mayor and City Council of the City of Weston, Texas desire to establish a policy which provides maximum protection of the lives and persons of the City of Weston; and

WHEREAS, Article 42.12(13B) of the Texas Code of Criminal Procedure, provides a 1000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses; and

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code provide the City authority to adopt ordinances for the good government, peace order and welfare of the municipality;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS:

SECTION 1. Sexual Offender: Residency Restrictions

a. Findings and Intent. That repeat sexual offenders, sexual offenders that use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses and most sexual offenders commit many offences, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant. It is the intent of this ordinance to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residences.

b. Definitions. The following words, terms, and phrases, when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

i. "Permanent residence" means a place where the person abides, lodges or resides for 14 or more consecutive days.

ii. "Temporary residence" means a place where the person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, resides or lodges for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

c. It is unlawful for any person who has been convicted of a violation of Article 43.25 Penal Code, Article 43.26 Penal Code, Article 21.08 Penal Code, Article 21.11 Penal Code, Article 22.011 Penal Codes,

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Article 22.021 Penal Code and Article 25.02 Penal Code, regardless of whether the adjudication was deferred, in which the victim of the offence was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within 1000 feet of a public or private school, day care facility, playground, public or private youth center, public swimming pool or video arcade facility, as those terms are defined in Article 481.134 of the Health and Safety Code of the State of Texas.

d. For the purpose of determining the minimum distance separation, the measurement of the distance between the place of the person's residence and the day care facility, playground, public or private youth center, public swimming pool or video arcade facility shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the person's residence and the public or private school shall be:

i. in a direct line from the property line of the public or private school to the property line of the person's residence, and in a direct line across intersections; or

ii. if the person's residence is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the person's residence, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the person's residence is located.

iii. Exceptions. A person residing within 1000 feet of those places identified in Section 1.c. does not commit a violation of this ordinance if any of the following apply:

iv. The person established the permanent or temporary residence and has complied with all the sex offender registration laws of the State of Texas, prior to the date of the adoption of this ordinance;

v. The person was a minor when he/she committed the offense and was not convicted as an adult;

vi. The person is a minor; or

vii. The premises specified in Section 1.c. was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.

SECTION 2. Property Owners Prohibited from Renting Real Property to Sexual Offenders

a. It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this ordinance, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within 1000 feet of any public or private school, day care facility, playground, public or private youth center, public swimming pool, or video arcade facility, as those terms are defined in Article 481.134 of the Health and Safety Code of the State of Texas.

b. The determination of the distance between the residence described in Section 2.a. and the public or private school, day care facility, playground, public or private youth center, public swimming pool or video arcade facility shall be the same as described in Section 1.d. of this ordinance.

SECTION 3. This Ordinance shall be cumulative of all provisions of the City of Weston, Texas except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

SECTION 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and Sections of this Ordinance are severable and if any phrase, clause, sentence, paragraph or Section of this Ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Ordinance since the same could have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or Section.

SECTION 5. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6. All rights and remedies of the City of Weston are expressly saved as to any and all violations of the provisions of any ordinances governing sexual offenders which have accrued at the time

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of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7. The City Secretary of the City of Weston is hereby directed to publish the caption and penalty clause of this ordinance at least once in the official newspaper of the City of Weston.

SECTION 8. This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED this the *10th* day of *Oct* 2006.

Patti Harrington

Patti Harrington, Mayor

ATTEST:
Susan M Coffey

Susan M Coffey, City Secretary