

ORDINANCE NO. 15-060-00

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, ESTABLISHING A CHILD SAFETY ZONE; MAKING IT UNLAWFUL FOR PERSONS REQUIRED TO REGISTER ON THE TEXAS DEPARTMENT OF PUBLIC SAFETY'S SEX OFFENDER DATABASE BECAUSE OF A CONVICTION AGAINST A MINOR TO RESIDE WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; MAKING IT UNLAWFUL TO PROVIDE A RESIDENCE TO CERTAIN PREDATOR SEX OFFENDERS IN PROHIBITED AREAS; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF \$500.00; PROVIDING AN EFFECTIVE DATE AND OPEN MEETING CLAUSES; AND PROVIDING FOR RELATED MATTERS

WHEREAS, studies have shown the recidivism rate for persons who commit sexual crimes against children is high;

WHEREAS, it is reported that only a fraction of sexual crimes are reported to the police;

WHEREAS, the protection of children from sexual offenses is of paramount importance to society as a whole;

WHEREAS, victims of sex crimes can suffer long-term deleterious effects;

WHEREAS, children have less ability than adults to protect themselves from sexual crimes;

WHEREAS, the City Council of the City of Leander, Texas (the "City") finds that restricting the property available for residence of persons required to register on the Texas Department of Public Safety's Sex Offender Database (the "Database") because of one or more convictions involving a Minor will provide safeguards for children gathering in the City and is necessary for the protection of the public safety and welfare; and

WHEREAS the City Council finds that the residency restrictions set forth in this Ordinance will help limit contact between database registrants and children, thereby reducing opportunities for recidivism and reducing the temptation to reoffend;

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

Section 1. Adoption of Findings of Fact. The findings and recitations set out in this ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Child Safety Zones Regulations. Chapter 8 of the City Code of Ordinances is hereby amended by adding Article 8.06, entitled “Child Safety Zones”, to read as follows:

ARTICLE 8.06. CHILD SAFETY ZONES

Sec. 8.06.001 Definitions.

Day Care Center. A facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours a day.

Minor. A person under the age of 17.

Park. A parcel of land, community park, neighborhood park, playground, swimming pool, indoor facility, outdoor facility, recreation center, field, athletic field, leased and/or owned by the City, and devoted to active or passive recreation, including any related facilities, parking lots and/or amenities, save and except any of the foregoing that has a stadium, arena and/or permanent seating and primarily used for sporting events, special events and/or other entertainment any of which is not managed by the City.

Permanent Residence. A place where a person abides, lodges, or resides for 14 or more consecutive days.

Premises Where Children Commonly Gather. Areas including all improved and unimproved areas on lots where the following are located or planned to be located: a public Park, private or public school (excluding in-home schools), semi-public swimming pools, Day Care Center, video arcade facility (as that term may be defined in Section 481.134, Texas Health and Safety Code), or private recreational facility, including a Park, pool, playground, skate Park, or youth athletic field owned by a residential property owners association, or for which an entrance, admission, or rental fee is charged.

Temporary Residence. A place where a 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 a person routinely abides, resides, or lodges for a period of four or more consecutive or nonconsecutive days in any month and which is not the person’s Permanent Residence.

Child Sex Offender. A person who is required to register on the Texas Department of Public Safety’s Sex Offender Database (the “Database”) because of one or more convictions involving a Minor.

Sec. 8.06.002 Offenses: Residency Requirements

(a) It shall be unlawful for a Child Sex Offender to establish a Permanent Residence or Temporary Residence within 1,000 feet of any Premises Where Children Commonly Gather.

(b) It shall be 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 Article, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within 1,000 feet of any Premises Where Children Commonly Gather.

Sec. 8.06.003 Offenses: Halloween

A Child Sex Offender shall not on each October 31st leave an exterior porch light on or otherwise invite trick-or-treaters to the premises.

Sec. 8.06.004 Evidentiary matters; measurement

(a) For the purpose of determining the minimum distance of separation under this Article, the distance shall be measured by following a straight line from the outer property line of the property upon which Permanent or Temporary Residence is located to the nearest property line of the property upon which Premises Where Children Commonly Gather is located, as described hereinabove, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the property upon which the Premises Where Children Commonly Gather is located, as described herein.

(b) A map depicting the prohibited areas shall be maintained by the City, and it shall be reviewed and updated not less than annually for changes. Said map will be available to the public on the City's website.

(c) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined in this Article.

Sec. 8.06.005 Affirmative Defenses

The following shall be affirmative defenses to prosecution under this Article that any of the following conditions apply:

(a) It shall be an affirmative defense under Section 8.06.002 if the person required to register on the database established the Permanent or Temporary Residence and has complied with all of the Child Sex Offender registration laws of the State of Texas, prior to the date of the adoption of this Article, provided, however that if the person required to register on the database established the Permanent or Temporary Residence through a lease or other rental arrangement in effect on the effective date of this Ordinance, this affirmative defense shall not apply upon termination of the lease/rental arrangement that is in effect on the effective date of this Ordinance.

(b) It shall be an affirmative defense under Section 8.06.002 if the Premises Where Children Commonly Gather was designated, declared and/or determined after the Child Sex Offender established the Permanent or Temporary Residence and complied with all Child Sex Offender registration laws of the State of Texas provided, however, that if the person required to register on the database established the Permanent or Temporary Residence through a lease or other rental arrangement in effect on the effective date of this Ordinance, this affirmative defense shall not apply upon termination of the lease/rental arrangement that is in effect on the effective date of this Ordinance.

(c) It shall be an affirmative defense under Sections 8.06.002 and 8.06.003 if the information on the database is incorrect, and, if corrected, this Article would not apply to the person who was erroneously listed on the database.

(d) The person required to register on the database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.

(e) The person required to register on the database is a minor.

(f) The person was at the time of the violation subject to community services supervision pursuant to section 13B of article 42.12 of the Texas Code of Criminal Procedure, as amended, and the court reduced or waived the 1,000-foot restriction for a child free zone under section 13B(a)(1)(B) of article 42.12 of the Texas Code of Criminal Procedure, as amended, as it applies to the person's residence.

Sec. 8.06.006 Penalty Provision

Any person who violates the provisions of this Article shall be charged with a class C misdemeanor; and upon conviction shall be fined as provided a maximum of \$500.00 for each day that a violation exists, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues; provided that the penalty for a person's second offense under this ordinance shall not be less than \$200.00, and a penalty for a person's third offense under this ordinance shall not be less than \$400.00.

Section 3. Amendment of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this ordinance are hereby amended to the extent of a conflict herewith. In the event of a conflict between another ordinance of the City and this ordinance, this ordinance shall control.

Section 4. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 5. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public

notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Loc. Gov't Code.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and approval.

PASSED AND APPROVED on first reading this the ___ day of _____, 20__.

Attest:

The City of Leander, Texas

Debbie, Haile City Secretary

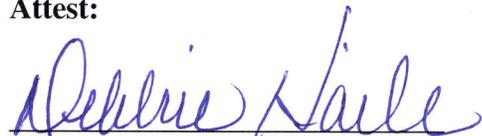
Christopher Fielder, Mayor

notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Loc. Gov't Code.

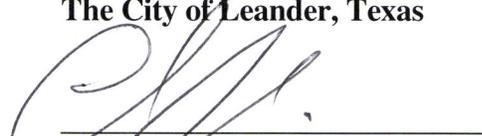
Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and approval.

PASSED AND APPROVED on first reading this the 3rd day of December, 2015.

Attest:


Debbie Haile, City Secretary

The City of Leander, Texas


Christopher Fielder, Mayor

