

ORDINANCE NO. 2022-02-15-A

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF TEAGUE, TEXAS, AMENDING ARTICLE 8.1100, *SEX OFFENDERS*, OF CHAPTER 8, *OFFENSES AND NUISANCES*, OF THE CITY'S CODE OF ORDINANCES TO PROHIBIT CERTAIN REGISTERED SEX OFFENDERS FROM RESIDING WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN COMMONLY GATHER; PROVIDING FOR THE MEASURING OF DISTANCE REQUIREMENTS; DISPENSING WITH CULPABLE MENTAL STATE; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING A PENALTY FOR VIOLATIONS HEREOF AND EACH DAY UPON WHICH A VIOLATION OCCURS OR CONTINUES SHALL CONSTITUTE A SEPARATE VIOLATION; PROVIDING FOR A CUMULATIVE REPEALER AND SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR ENROLLMENT AND ENGROSSMENT; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the Board of Aldermen of the City of Teague, Texas find and declare that child predator offenses are a serious threat to public safety; and

WHEREAS, the Board of Aldermen find and determine that the recidivism rate for released sex offenders is alarmingly high, especially for those who commit crimes against children; and

WHEREAS, the Board of Aldermen find and determine that establishing a policy to restrict the property available for residence of certain sex offenders will provide greater protection for children gathering in the City; and

WHEREAS, the Board of Aldermen find that persons convicted of offenses that involve either physical contact with minors or preparatory steps towards physical contact with minors are a great risk to the safety of children who gather near areas where such offenders reside; and

WHEREAS, the Board of Aldermen has determined that establishing regulations that restrict certain offenders from residing in areas that are at or near where there is a high concentration of children will provide better protection for children in the City by minimizing immediate access and proximity to children who are at and going to and from schools, parks, and day care centers, and that this residency restriction will foster the public safety of its citizens; and

WHEREAS, as a Type A general law municipality, the City of Teague has the power pursuant to Section 341.906 of the Texas Local Government Code, as amended, to enact an ordinance to restrict a registered sex offender from going on, or within a specified distance of a child safety zone of the City; and

WHEREAS, it is the determination by the Board of Aldermen that every effort should be made to protect its citizens from harm at the hands of certain sex offenders, and that the City's children are worthy of protection to the greatest extent afforded under the law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF TEAGUE, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The premises set forth above are hereby declared true and correct and shall be incorporated into this body of this Ordinance as if set forth fully herein.

SECTION 2. AMENDMENT. That Article 8.1100, *Sex Offenders*, of Chapter 8, *Offenses and Nuisances*, of the City's Code of Ordinances shall be amended in its entirety as set forth below with all other provisions of Chapter 8 not herein amended to remain in full force and effect:

CHAPTER 8 OFFENSES AND NUISANCES

ARTICLE 8.1100 SEX OFFENDERS

Sec. 8.1101 Purpose; Intent

The Board of Aldermen of the City of Teague finds that sex offenders, particularly those with child victims, who are required to register as a sex offender pursuant to the Texas Code of Criminal Procedure, Chapter 62, present an extreme threat to the health, safety, and welfare of children and the public at large. It is the intent of this Article to promote, protect and improve the health, safety, and welfare of the citizens of the City of Teague, by creating safety areas around locations where children regularly congregate for various purposes, wherein certain registered sex offenders will be prohibited from entering or establishing temporary or permanent residency.

State law reference for this Article – Local Government Code Sec. 341.906 *Limitations on Registered Sex Offenders in General-Law Municipalities*.

Sec. 8.1102 Definitions

- (A) For the purposes of this Article, the following terms, words, and the derivations thereof shall have the meanings given herein:
- (1) Child is any person under the age of seventeen (17).
 - (2) Child Care Facility means a facility licensed, certified, or registered by the applicable City department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.
 - (3) Child Safety Zone means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children. The term does not include a church, as defined by Section 544.251, Insurance Code.
 - (4) Database means the Texas Department of Public Safety Sex Offender Registry or the National Sex Offender Registry.
 - (5) Park or Playground means any facility that is not on the premises of a school and that:
 - a. is intended for recreation;
 - b. is open to the public; and
 - c. contains three or more play stations intended for the recreation of children, such as

slides, swing sets, and teeterboards.

- (6) Permanent Residence is a place where a person abides, lodges or resides for 14 or more consecutive days.
- (7) Premises means real property and all buildings and appurtenances pertaining to the real property.
- (8) School means a private or public elementary or secondary school or a day-care center, as defined by Section 42.002, Human Resources Code.
- (9) Sex Offender is an individual who is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure.
- (10) Temporary Residence is a place where a person abides, lodges or resides for a period of fourteen (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, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
- (11) Video arcade facility means any facility that:
 - a. is open to the public, including persons who are 17 years of age or younger;
 - b. is intended primarily for the use of pinball or video machines; and
 - c. contains at least three pinball or video machines.
- (12) Youth center means any recreational facility or gymnasium that:
 - a. is intended primarily for use by persons who are 17 years of age or younger; and
 - b. regularly provides athletic, civic, or cultural activities.

Sec. 8.1103 Sex Offender Prohibition

- (A) A Sex Offender is prohibited from establishing, in the City limits of the City, a Permanent Residence or Temporary Residence within 1,000 feet of any Child Safety Zone.
- (B) It is unlawful to let or rent any place, structure or part thereof, in the City limits of the City, 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 is located within 1,000 feet of any Child Safety Zone.
- (C) A person is criminally responsible for an offense committed by the conduct of another violating this Article, if, acting with the intent to promote or assist the commission of the offense, the person solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.
- (D) Nothing in this Article shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a Sex Offender.

Sec. 8.1104 Evidentiary Matters

- (A) It shall be prima facie evidence that this Article applies to such a person if that person's record appears on the Database and the Database indicates that the victim was younger than 17 years of age.
- (B) For the purposes of determining the minimum distance separation, the requirement shall be measured by following: a straight line from the outer property line of the Permanent or Temporary Residence to the nearest property line of the premises of a Child Safety Zone. In the case of multiple residences on one property, the distance requirement shall be measured from the nearest portion of the building or structure used as a Permanent or Temporary Residence by the Sex Offender or the parking lot or driveway providing access to the building

or structure, whichever is closest to the nearest property line of the premises of a Child Safety Zone.

- (C) The City shall create a map depicting the prohibited areas within the City for Sex Offenders. The map shall be on file in the Office of the City Secretary and the Police Department and viewable online at www.cityofteaguetx.com. The City shall review the map annually and amend as needed. The lack of the map being created, the unavailability of the map, or the lack of a map being maintained by a local law enforcement authority is not a violation of this chapter and is not a defense to a violation of this Article.

Sec. 8.1105 Culpable Mental State Not Required

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

Sec. 8.1106 Exemptions; Affirmative Defenses

It is an affirmative defense to prosecution under this Article that any of the following conditions apply:

- (A) The person required to register on the Database established the Permanent or Temporary Residence and has complied with all of the sex offender registration laws of the state prior to the date of the adoption of this Article.
- (B) 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.
- (C) The person required to register on the Database is a minor.
- (D) Child Safety Zones, as specified herein, within 1,000 feet of the Permanent or Temporary Residence of the person required to register on the Database was opened after the person established the Permanent or Temporary Residence and complied with all state sex offender registration laws.
- (E) 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.
- (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. 8.1107 Penalty

Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed five hundred dollars (\$500.00). Each day a violation occurs or is allowed to continue shall constitute a separate offense punishable hereunder. Nothing herein contained shall require the city to elect remedies or shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of this Article.

SECTION 3. CUMULATIVE REPEALER. This Ordinance shall be cumulative of all other Ordinances of the City of Teague and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance or where expressly repealed hereby. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

SECTION 4. SAVINGS CLAUSE. All rights and remedies of the City of Teague, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting sex offender residency which have secured at the time 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 court.

SECTION 5. SEVERABILITY. If any section, subsection, clause, phrase, or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unconstitutional, the remaining sections, subsections, clauses, phrases, and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 6. ENROLLMENT/ENGROSSMENT. The City Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the City Council and by filing this Ordinance in the Ordinance Records of the City.

SECTION 7. PENALTY. Any person who violates any provision of this Ordinance, upon conviction, shall be deemed guilty of a misdemeanor and shall be fined a sum not to exceed five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 8. PUBLICATION/EFFECTIVE DATE. This Ordinance shall take effect upon its publication as required by law. The City Secretary is directed to publish the caption and penalty of this Ordinance as required state law.