

ORDINANCE NO. 325

AN ORDINANCE PERTAINING TO Ordinance 325, OFFENSES AND NUISANCES, CREATING CITY ORDINANCE NUMBER 325, SEXUAL OFFENDER SAFETY ZONE, OF THE CODE OF ORDINANCES OF THE CITY OF STINNETT, TEXAS.

AN ORDINANCE TO ADOPT SEXUAL OFFENDER RESIDENCY RESTRICTIONS; TO PROHIBIT CERTAIN PERSONS SUBJECT TO THE SEX OFFENDER REGISTRATION ACT AND DEFINED AS SEXUAL OFFENDERS, FROM RESIDING WITHIN 500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF Stinnett; RESTRICTING SEXUAL OFFENDERS' ACCESS TO PARKS AND CHILD CARE FACILITIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR PENALTIES, SEVERABILITY AND SUPERSEDING OR REPEALING ANY CONFLICTING ORDINANCES.

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

WHEREAS, the Mayor and City Council of the City of Stinnett, Texas desire to establish an ordinance which provides maximum protection of the lives and persons of the City of Stinnett, Texas; 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, prohibiting certain sexual offenders from living within 500 feet of specified locations and limiting their contact with children at parks and child care facilities will reduce the amount of incidental contact sexual offenders have with children; and

WHEREAS, reducing the amount of incidental contact will decrease the opportunity for certain sexual offenders to commit new sexual offenses against children; 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 Stinnett , TEXAS:

THAT, Stinnett City Ordinance 325, Offenses and Nuisances, is hereby amended by adding City Ordinance 325, Sexual Offender Safety Zone, to read as follows:

SEXUAL OFFENDER SAFETY ZONE

Findings and Intent

(a) Repeat sexual offenders, sexual offenders that use physical violence and sexual offenders who prey on children present an extreme threat to the public safety. Sexual offenders are likely to use physical violence and to repeat their offenses and most sexual offenders commit many offenses, 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.

(b) It is the intent of this ordinance to serve as the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens, particularly children, by prohibiting certain sexual offenders from establishing temporary or permanent residence in certain areas where children are known to regularly congregate and to restrict certain sexual offenders access to parks, public swimming pools, child care facilities, public or private youth centers, and video arcade facilities.

Definitions

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

Child or Children. Means any person(s) less than seventeen (17) years of age.

Child care facility. Means day nurseries and family day care homes, as defined in Article 42.002, Human Resources Code of the State of Texas.

Convicted or conviction. Means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction of a similar offense includes, but is not limited to: a conviction by a federal or military tribunal, including a court-marshal conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in any sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

Legal guardian or guardian. Shall mean biological or adoptive parent of a child, or a person who is responsible for the care and maintenance of said child pursuant to Texas Statutes or similar laws of another jurisdiction.

Minor. A minor is a person younger than seventeen (17) years of age.

Park. Means public parks, public swimming pools and ball fields, school athletic facilities and playgrounds, and youth centers whether public or private where children under the age of seventeen (17) are known to regularly congregate.

Permanent residence. Means a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

Reside or residence. Means to have a place of permanent or temporary residence.

School. Means a public or private kindergarten, elementary, middle or secondary (high) school.

Sexual offender. For the purposes of this ordinance, shall be any person required to register on the Texas Department of Public Safety's Sex Offender Database because of a violation involving a victim who was less than seventeen (17) years of age as required by Chapter 62, Texas Code of Criminal Procedure.

Sexual offense. Means a conviction under Article 21.08, Article 21.11, Article 22.011, Article 22.021, Article 25.02, Article 43.05, Article 43.25 or Article 43.26, Penal Code, Texas Statutes, or similar law of another jurisdiction in which the victim of the sexual offense was less than seventeen (17) years of age.

Temporary residence. Means a place where the 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 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.

Sexual Offenders Residence Prohibition; Exceptions

(a) It is unlawful for any person who has been convicted of a violation of Article 21.08, Article 21.11, Article 22.011, Article 22.021, Article 25.02, Article 43.05, Article 43.25 or Article 43.26, Penal Code, Texas Statutes, regardless of whether the adjudication was deferred, in which the victim of the offense was less than seventeen (17) years of age, to establish a permanent or temporary residence within 500 feet of any premises where children are known to regularly congregate, including but not limited to, a school or school athletic facility, day care facility, park, public or private youth center, public swimming pool, or video arcade facility, as those terms are defined in Article 481.134, Health and Safety Code, Texas Statutes.

(b) The 500 foot distance shall be measured in a straight line from the outer boundary of the real property that comprises a sexual offender's residence to the nearest boundary line of any premises where children are known to regularly congregate, including but not limited to, a school, day care facility, playground, public or private youth center, public swimming pool, or video arcade facility. The distance may not be measured by a pedestrian route or automobile route, but instead by the shortest distance between the two points.

(c) The City of Stinnett Police Department shall develop and update as needed a map of known locations where children regularly congregate, including but not limited to, a school, day care facility, playground, public or private youth center, public swimming pool, or video arcade facility. This map shall be used by the Police Department and made available to sexual offenders during the registration process. The revision date of the map used during the registration process of each sexual offender shall be maintained by the Police Department, ensuring the exception in City Ordinance 325, as locations are updated on the map.

(d) Exceptions. A person residing within 500 feet of those places where children are known to regularly congregate, as specified herein does not commit a violation of the Article if any of the following apply:

- (1) The person established the permanent or temporary residence prior to the dated adoption of this ordinance and has complied with all the sex offender registration laws of the State of Texas.
- (2) The person was a minor when he/she committed the offense and was not convicted as an adult.
- (3) The person is a minor.
- (4) The premises where children are known to regularly congregate, as specified herein, within 500 feet of the person's residence was opened after the person established the permanent or temporary residence, and the person has complied with all the sex offender registration laws of the State of Texas.

(e) Stinnett City Ordinance 325 herein shall not apply to a sexual offender who is convicted of a subsequent offense as an adult after residing at an established permanent or temporary residence within 500 feet of where children are known to regularly congregate, as specified herein.

Sexual Offender Access to Parks, Public Swimming Pools, Child Care Facilities, Public or Private Youth Centers and Video Arcade Facilities

(a) It is unlawful for a sexual offender convicted of a sexual offense, as defined in City Ordinance 325, to knowingly be present in a public park or swimming pool, when a child under the age of seventeen (17) years is present, unless the sexual offender is the parent or legal guardian of a child present in the park or swimming pool.

(b) It is unlawful for a sexual offender convicted of a sexual offense, as defined in City Ordinance 325, to knowingly enter or remain at a child care facility or on its premises unless the sexual offender:

- (1) Is dropping off or picking up a child registered at the facility and is the parent or legal guardian of said child.
- (2) Remains under the supervision of a facility supervisor or his/her designee while on the facility premises.

(c) It is unlawful for a sexual offender convicted of a sexual offense, as defined in City Ordinance 325, to knowingly be present in public or private youth center or video arcade facility when a child under the age of seventeen (17) years is present, unless the sexual offender is the parent or legal guardian of a child present in the center or facility.

Penalties

A violation of any provision of this article shall be a misdemeanor, and any person, firm or corporation convicted hereunder, shall be punished as specified in Section 1.01.009, General Penalty for Violation of Code.

Repealer

All Articles, sections, subsections, sentences, clauses or provisions in conflict herewith and the same are hereby repealed.

Severability

If any section, subsection, sentence, clause or provision of the City Ordinance 325 is held invalid, the remainder of this Article shall not be affected by such invalidity.

Intent

The sections of this Article may be re-numbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to Article, section or other appropriate word.

INTRODUCED this the 16th day of April, 2012.

PASSED AND APPROVED this the 25th day of June, 2012.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Manager

City Attorney