

ORDINANCE NO. 2010-038

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARIS, TEXAS, ENACTING A NEW ARTICLE VII, RESIDENTIAL RESTRICTIONS FOR REGISTERED SEX OFFENDERS, TO CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF PARIS, TEXAS; PROVIDING FOR THE REGULATION OF SEX OFFENDER RESIDENCY; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Paris determines and declares that sex offenders who have committed sexual offenses against children are a threat to the health, safety, and welfare of the children of the City; and

WHEREAS, the City Council determines that the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes against children; and

WHEREAS, the City Council determines that establishing a policy to restrict the residency of sex offenders will provide better protection for children gathering in the City; and

WHEREAS, Article 42.12 (13B) of the Texas Code of Criminal Procedure provides a 1,000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses.

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

Section 1. That the findings set out in the preamble to this ordinance are hereby in all things approved.

Section 2. A new Article VII *Residential Restrictions of Sex Offenders* to Chapter 21 of the Code of Ordinances of the City of Paris, Texas is hereby enacted to read in its entirety as follows:

**“ARTICLE VII.
RESIDENTIAL RESTRICTIONS OF SEX OFFENDERS**

Sec. 21-200. Regulation of sex offenders.

The city council of the City of Paris finds that sex offenders who are required to register under state law present a threat to the health, safety and welfare of children. It is the intent of this article 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 registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.

Sec. 21-201. Definitions.

For the purposes of this article, the following terms, words and the derivations thereof shall have the meaning given herein:

Child means any person under the age of seventeen (17).

Child-care facility means a facility licensed, certified, or registered by the Texas Department of Human Resources 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 twenty-four-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Child-care institution means a child-care facility that provides for more than twelve (12) children twenty-four (24) hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.

Child safety zone means public parks or playgrounds, private and public schools, public library, public swimming pools, child-care facility, child-care institution, day-care center, public or private youth soccer or baseball field, crisis center or shelter, skate park, public or private youth center, and offices for child protective services.

Database means the Texas Department of Public Safety's sex offender database or the sex offender registration files maintained by the sex offender registration officer of the city police department.

Day-care Center means a child care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven (7) or more children under fourteen (14) years of age for less than twenty-four (24) hours a day, but at least two (2) hours a day, three (3) or more days a week.

Park or playground means any land, including improvements to the land that is administered, operated or managed by the city for the use of the general public as a recreational area.

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

School means a private or public pre-school, private or public elementary school or private or public secondary school, which shall include private or public home-schools.

Sex Offender means an individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a person under seventeen (17) years of age for which the individual is required to register as a sex offender under state law.

Temporary residence means 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.

Sec. 21-203. Sex Offender prohibition.

It is unlawful and an offense for a sex offender to establish a permanent residence or temporary residence within one thousand (1,000) feet of the real property comprising a school, child-care facility, child-care institution, day-care center, park or playground or other places defined herein as a child safety zone.

Sec. 21-204. Evidentiary matters.

(a) It shall be prima facie evidence that this article applies to such a person if that person's record appears in/on the database and the database indicates that the victim was less than seventeen (17) years of age.

(b) The distance of one thousand (1,000) feet shall be measured on a straight line from the closest boundary line of the sex offender's residence to the closest boundary line of the school, child care facility, child care institution, park or playground or other places defined herein as a child safety zone.

(c) In the case of multiple residences on one (1) property, measuring from the nearest property line of the residences to the nearest property line of the school, child care facility, child care institution, park or playground or other places defined herein as a child safety zone.

(d) In cases of a dispute over measured distances, it shall be incumbent upon the person(s) challenging the measurement to prove otherwise.

(e) A map depicting the prohibited areas shall be created by the city and maintained by the city police department. The city shall review the map annually for changes. Said map will be available to the public at the city police department or available on the city website or city police department website.

Sec. 21-205. Exceptions.

The following exceptions shall be an affirmative defense to prosecution for a violation of this article:

(1) The person required to register in/on the database established the permanent residence or temporary residence and residency has been consistently maintained and the person has complied with all of the sex offender registration laws of the State of Texas, prior to the date of the adoption of this article; or

(2) The place defined herein as a child safety zone and within one thousand (1,000) feet of the permanent or temporary residence of the person required to register on/in the database was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state; or

(3) The information on/in the database is incorrect, and, if corrected, this section would not apply to the person who was erroneously listed on/in the database; or

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

(5) The person required to register is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution located within one thousand (1,000) feet of the real property comprising a school, child-care facility, child-care institution, day-care center, park or playground or other places defined herein as a child safety zone; or

(6) The person required to register is under eighteen (18) years of age or a ward under a guardianship, who resides with a parent or guardian; or

(7) The person required to register has been exempted by a court order from registration as a sex offender under state law; or

(8) The person required to register has had the offense for which the sex offender registration was required reversed on appeal or pardoned; or

(9) The person's duty to register on/in the database has expired.

(10) Nothing in this provision 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."

Section 3. That all provisions of the ordinances of the City of Paris, Texas in conflict with the provisions of this ordinance are hereby repealed, and all other provisions of the ordinances of the City of Paris not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. That the repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this ordinance.

Section 5. That it is the intention of the City Council of the City of Paris that this ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause, or provisions of this ordinance shall not affect the validity of any other portion of this ordinance.

Section 6. That any person violating any of the provisions of this ordinance shall be guilty of a Misdemeanor, and, upon conviction, shall be fined in any sum not to exceed \$500.00, and each and every day's continuance of any violation of the above-enumerated sections shall constitute and be deemed a separate offense.

Section 7. Introduced and read on first reading on September 13, 2010, at a regular meeting of the City Council of the City of Paris and read and passed on second reading on September 27, 2010, at a regular meeting of the City Council of the City of Paris; the same being two (2) separate regular meetings of the City Council of the City of Paris.

Section 8. That this ordinance shall become effective immediately upon its passage of the second reading and publication as required by law.

PASSED AND ADOPTED on first reading this 27th day of September, 2010.


Will Biard, Mayor

ATTEST:


Janice Ellis, City Clerk

APPROVED AS TO FORM:


W. Kent McIllyar, City Attorney