

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORSICANA, TEXAS, AMENDING CHAPTER 7, ENTITLED *OFFENSES AND NUISANCES*, ARTICLE 7.700, *RESIDENCY RESTRICTIONS FOR CERTAIN SEX OFFENDERS*, OF THE CITY CODE OF ORDINANCES CONCERNING ENTERING CITY PARK SAFETY ZONES.

WHEREAS, in accordance with the provisions of the laws of the State of Texas, the City Council has conducted a public hearing for the purpose of considering the amendment to the Code of Ordinances for the City of Corsicana, Texas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Corsicana, Texas, that Chapter 7, entitled *Offenses and Nuisances*, Article 7.700, *Residency Restrictions for Certain Sex Offenders*, of the City Code of Ordinances, shall be amended and hereafter read as follows:

CHAPTER 7 OFFENSES AND NUISANCES

Article 7.700 Restrictions for Certain Sex Offenders

ARTICLE 7.700. RESTRICTIONS FOR CERTAIN SEX OFFENDERS

Sec. 7.701 Definitions

For the purposes of this Section, the following terms, words, and the derivations thereof shall have the meanings given herein.

- (1) Child Care Center: Means a facility licensed, certified, or registered by the Texas Department of Human Services 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.
- (2) Minor: Means any person younger than seventeen (17) years of age.
- (3) Permanent Residence: Means a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (4) 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 a 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 address.
- (5) Premises Where Children Commonly Gather: Means all improved and unimproved areas on a lot where a park, private or public school, video arcade, skate park, playground, childcare facility, public swimming pool, and youth center as defined in Section 481.134 of the Texas Health and Safety Code.
- (6) Sex Offender: Means a person required to register as a sex offender pursuant to Chapter 62, Code of Criminal Procedure, on the Texas Department of Public Safety's Sex Offender Database because of a reportable conviction or adjudication involving a minor.
- (7) Playground: Any outdoor facility that is not on the premises of a school and that is intended for recreation, is open to the public, and contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and monkey bars.
- (8) School: A private or public elementary or secondary school.

- (9) Swimming Pool: Any structure intended or used by the public for swimming or recreational bathing, regardless of size, and including in-ground, above-ground, and on-ground swimming pools. The term shall not include swimming or bathing facilities located on private residential property which is not open for use by the public or swimming or bathing facilities located within an apartment or other multi-family housing complex.
- (10) Park: Means any public land designated by the City of Corsicana as parkland and used by the public as a meeting, recreation area or wildlife refuge including improvements to the land, which is administered, operated or managed by the city for the use of the general public as a park, trail or natural area, and city recreational areas which include, but are not limited to: conservation areas, jogging trails, hiking trails, bicycle trails, bodies of water designated for canoeing or kayaking, recreational centers or meeting facilities, water parks, swimming pools, soccer fields and baseball fields. A map depicting the city parks shall be kept and maintained by the Corsicana Police Department.
- (11) Park Safety Zone: In the context of this article means all city parks as defined in (10), with the exception of cemeteries.
- (12) Video Arcade: Means any facility that is open to the public, including persons who are 17 years of age or younger, is intended for the use of pinball, video, or computer games and contains at least three pinball or video machines or computers for gaming purposes.

(Ordinance 2712 adopted 3/2012)

Sec. 7.702. Offenses

- (A) If a person is required to register on the Texas Department of Public Safety's Sex Offender Database because of a violation involving a victim who is less than seventeen (17) years of age, it is unlawful for a that person to establish a permanent or temporary residence within 1,000 feet of any premises where children commonly gather.
- (B) It is unlawful for the owner, lessee, or occupant of any place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer, or other conveyance, with knowledge that it will be used as a temporary or permanent residence, to rent or lease the same, or any part thereof, to a 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, if such place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer, or other conveyance is located within 1,000 feet of premises where children commonly gather.
- (C) An owner, lessee or occupant of any place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer, or other conveyance, shall be deemed to have knowledge that another person is 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 if such person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age on the earlier of:
 - (1) The date of receipt of a lease application, rental application or similar document by owner, lessee, or occupant or owner's, lessee's, or occupant's officers, agents, employees, or volunteers; or
 - (2) The date the person first occupies the owner's, lessee's, or occupant's place, residence, structure, dwelling, manufactured dwelling, mobile home, camping trailer or other conveyance.
- (D) It is an offense for a sex offender to intentionally or knowingly enter a park safety zone.
- (E) It is an offense for a sex offender to intentionally or knowingly loiter within three hundred (300) feet of a park safety zone.
- (F) A sex offender who has a right to be present at an official meeting is exempted from this section and may approach and enter a park safety zone for such time as is necessary to attend the official meeting. This exemption shall only apply to those areas of the park safety zone that are necessary for attendance at the official meeting, and any sex offender found outside such areas shall be in violation of this article.

- (G) When a polling place for an election is located within a park safety zone, a sex offender is exempted from this section and may approach and enter the park safety zone for the limited purpose of voting if the sex offender qualifies to vote at such place. This exemption shall only apply to those areas of the park safety zone that are necessary for voting, and any sex offender found outside such areas shall be in violation of this article.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.703. Evidentiary Matters; Measurements

- (A) It shall be prima facie evidence that this Section applies to a person if that person's record appears on the Texas Department of Public Safety's Sex Offender Database and the Database indicates that the victim was less than seventeen (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 where children commonly gather; or in the case of multiple residences on one property, measuring from the nearest property line of the premises where children commonly gather.
- (C) A map depicting the prohibited areas shall be maintained by the City of Corsicana. The City shall review the map at least annually for changes. The map will be available to the public at the City of Corsicana Police Department.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.704. Culpable Mental State Not Required

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this Chapter.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.705. Affirmative Defenses

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

- (A) The person required to register on the Texas Department of Public Safety's Sex Offender Database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the State of Texas, prior to the date of the adoption of this ordinance.
- (B) The person required to register on the Texas Department of Public Safety's Sex Offender Database is a minor or was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
- (C) The premises where children commonly gather was opened or began to be used as such after the person established the permanent or temporary residence, and that the person complied with all sex offender registration laws of the State of Texas.
- (D) The information in the Texas Department of Public Safety's Sex Offender Database is incorrect, and if corrected, this Chapter would not apply to that person.
- (E) Exemptions from the terms of this chapter shall not be contrary to the public interest but may be granted where, owing to special conditions, or when a literal enforcement of the provisions of this chapter will result in unnecessary hardship. A sex offender shall have the right to make an appeal for an exemption from a provision of this chapter by making a request to the Chief of the Corsicana Police Department, in writing, stating why an exemption should be granted. The decision of the chief of police, which may be made based solely on the written appeal without further hearing, shall be final.

Sec. 7.706. Severability

If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.707. Repealer

All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.708. Continuation

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court or agency, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.709. Penalty

A violation of any provisions of this chapter shall be deemed to be a misdemeanor and, upon conviction of such violation, such violation shall be punishable by a fine not to exceed \$500. Each day the provisions of this chapter are violated shall constitute a separate offense.

(Ordinance 2712 adopted 3/20/12)

Sec. 7.710. Publishing and Effective Date

This ordinance shall be published and become effective according to law.

PASSED, APPROVED and ADOPTED this 6th day of May, 2024.

Michael Fletcher, Mayor

ATTEST:

Cathy McMullan, Acting City Secretary

APPROVED AS TO FORM:

Kerri Anderson Donica, City Attorney

