

ORDINANCE NO. 2018-O-027

AN ORDINANCE OF THE CITY OF LAREDO, TEXAS, AMENDING CHAPTER 23 "PARKS AND LEISURE SERVICES" BY REPEALING SECTION 23-8 "PROHIBITION REGARDING CHILD SEX OFFENDER IN CHILD SAFETY ZONE" AND REPLACING WITH A NEW SECTION "PROHIBITION REGARDING SEX OFFENDER IN SAFETY ZONE," AND AMENDING SECTION 23-9 "ENFORCEMENT PROCEDURES" TO RESTRICT THE ACTIVITIES OF REGISTERED SEX OFFENDERS WHO HAVE COMMITTED CRIMES AGAINST CHILDREN AS WELL AS ADULTS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, PENALTY FOR VIOLATION; SAVINGS, SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, the City of Laredo Texas is a home rule city that places a high priority on maintaining public safety through laws that deter and punish unlawful conduct through its highly skilled and trained law enforcement; and

WHEREAS, Section 62.051 of the Texas Code of Criminal Procedure requires individuals to register as sex offenders if they have committed crimes against children or adults; and

WHEREAS, the United States Supreme Court has recognized that the risk of recidivism posed by all registered sex offenders is "frightening and high" and "when convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault." *Smith v. Doe*, 538 US. 84 (2003) and *McKune v. Lite*, 536 US. 24, 34 (2002) citing U. S. Department of Justice, Bureau of Justice Statistics, Sex Offenses and Offenders, 27 (1997); US. Department of Justice, Bureau of Justice Statistics, Recidivism of Prisoners Released in 1983, page 6 (1997); and

WHEREAS, the City Council has investigated, determined, and hereby affirms, that the establishment of Residency Restrictions and Safety Zones applicable to both children and adult sexual offenders is the most reasonable and least intensive means of protecting not just children, but all citizens, from the becoming a victim of another violent crime by these dangerous offenders; and

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code and the City Charter, provide the City with the authority to adopt ordinances for the good government, peace, order, safety and welfare of the municipality; and

WHEREAS, the state sex offender regulations found in Texas Government Code 508.187, Texas Code of Criminal Procedure Chapter 42, and Texas Code of Criminal Procedure Chapter 62, are not in conflict, and thus do not preempt the City's authority to legislate in this area; and

WHEREAS, after consideration of the foregoing recitals and based upon the prior experience of the Laredo Police Department in protecting the members of the community from

sexually violent persons, the City Council finds the proposed ordinance will serve to protect the health, safety, and welfare of the entire community.

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

Section 1: That the City Council of the City of Laredo finds that all Sex Offenders who are required to register under V.T.C.A., Texas Code of Criminal Procedure, Chapter 62, present an extreme threat to the health, safety and welfare of the general public. It is the intent of this section to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of its citizens by creating areas, particularly around locations where women and children regularly congregate in concentrated numbers, wherein registered sex offenders and sexual predators are prohibited from loitering or from establishing residency.

Section 2: That Chapter 23 (Parks and Leisure Services), Section 23-8 of the City of Laredo Code of Ordinances, is hereby repealed and replaced with the following provisions:

Section 23-8. Sex Offenders in Safety Zones

(a) Definitions. For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(1) City park means:

(i) Land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation;

(ii) City recreational areas, including, but not limited to, a forest preserve, conservation area, jogging trail, hiking trail, water park, swimming pool, recreational center, soccer field or baseball field under the jurisdiction of a unit of local government.

(2) Sex offender means an individual who is required to register as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure, or by a state or federal agency. Sex offender shall also refer to civilly committed sexually violent predators, as referenced under Chapter 841 of the Texas Health and Safety Code.

(3) Database means the Texas Department of Public Safety's sex offender database.

(4) Loiter means standing, sitting idly, whether or not the person is in a vehicle or remaining in or around city park property or public way.

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

- (6) Public way means any place to which the public or a substantial group of the public has access and includes, but is not limited, to streets, shopping centers, parking lots, transportation facilities, restaurants, shops, and similar areas that are open to the public.
- (7) Safety zone means a city park or other place where children and females regularly congregate, including but not limited to, private parks, a public or private school, amusement parks, playgrounds, athletic training centers, carnivals, circuses, fairs, fair grounds, public or commercial and semi-private swimming pools, a child care facility, a child care institution, public or private athletic fields, a crisis center or shelter, a private youth center, and offices for Child Protective Services.
- (8) 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 residence.

(b) Sex Offender Restrictions.

- (1) It is an offense for a sex offender to knowingly enter a safety zone.
- (2) It is an offense for a sex offender to knowingly loiter on a public way within 300 feet of a safety zone.
- (3) It is an offense for a sex offender on each October 31st between the hours of 4:00 p.m. and 11:00 p.m. to leave an exterior porch light on or otherwise invite trick-or-treaters to solicit the premises.
- (4) It is an offense for a sex offender to establish a permanent or temporary residence within 1,000 feet of the real property comprising a safety zone.
- (5) Property Owners Prohibited from Renting Real Property to Sex Offenders. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is within one thousand (1,000) feet of a city park or safety zone.
- (6) A sex offender is exempted from this section if he or she has a right to be present at an official meeting located within a safety zone only for such time as is necessary to attend the official meeting. This exemption shall only apply to those areas of the 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 ordinance.

- (7) A sex offender is exempted from this section if he or she qualifies to vote at a polling place that is located within a safety zone during an election only for such time as it is necessary to cast a vote. This exemption shall only apply to those areas of the safety zone that are necessary for voting, and any sex offender found outside such areas shall be in violation of this ordinance.
- (8) This section does not apply to a sex offender who is in the process of dropping off or picking up his or her own child from a safety zone or while attending a school sponsored or athletic activity in which his or her child is participating. This exemption shall only apply to those areas of the safety zone that are necessary for dropping off or picking up the child or attending the child's activity, and any sex offender found outside such areas shall be in violation of this ordinance.

(c) Evidentiary Matters.

- (1) If A Sex Offender that is prohibited from being in a Safety Zone is found in a Safety Zone by a Police Officer, the Sex Offender is subject to punishment in accordance with this Ordinance.
- (2) The three hundred (300) feet distance requirement in section 23-8(b)(2) above shall be measured on a straight line from the closest boundary of the safety zone.
- (3) The one thousand (1,000) feet distance requirement in section 23-8(b)(4) and section 23-8(b)(5) above 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 city park or safety zone.
- (4) In cases of a dispute over measured distances, it shall be incumbent upon the person(s) challenging the measurement to prove otherwise.
- (5) A map depicting the prohibited areas shall be created by the City of Laredo and maintained by the Laredo Police Department. The City of Laredo shall review the map annually for changes. Said map will be available to the public at the Laredo Police Department.

(d) Affirmative Defenses.

- (1) The person required to register in/on the Database established the permanent or temporary residence prior to the adoption of this ordinance 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 ordinance.
- (2) The city park or safety zone, as specified herein, 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 the person has complied with all Sex Offender Registration laws of the State of Texas.

- (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.
- (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 convicted in the juvenile system.
- (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 city park or safety zone.
- (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.
- (7) The person required to register has been exempted by a court order from registration as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or
- (8) The person required to register has had the offense for which the sex offender registration was required reversed on appeal or pardoned.
- (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.

(e) **Penalties.** Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof may be fined an amount not to exceed \$ 500.00 as allowed by law. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

Section 3: That Chapter 23 (Parks and Leisure Services), Section 23-9 (Enforcement Procedures) of the City of Laredo Code of Ordinances, is hereby amended as follows:

Sec. 23-9. Enforcement Procedures.

If a police officer reasonably believes that a [child] sex offender is in a city park *or safety zone* in violation of the ordinance, the officer shall require the [child] sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a [child] sex offender, then the officer shall notify the [child] sex offender that he/she is in violation of the ordinance.

Section 4. Chapter 23, Article I of the City Code of Laredo Texas, as Amended, will remain in full force and effect, save and except as amended by this Ordinance.

Section 5. Should any sentence, paragraph, subdivision, clause, phrase, or section of this Chapter be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Chapter in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 5. The provisions of this Chapter shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Chapter are hereby expressly repealed to the extent that such inconsistency is apparent. This Chapter shall not be construed to require or allow any act that is prohibited by any other ordinance.

Section 6. This Chapter shall take effect immediately from and after its passage and publication as may be required by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS
5 DAY OF February, 2018.


PETE SAENZ, MAYOR

ATTEST:


JOSE A. VALDEZ, JR.
CITY SECRETARY



APPROVED AS TO FORM:


KRISTINA K. LAUREL HALE
CITY ATTORNEY

City Council-Regular

Meeting Date: 02/05/2018

Staff Source: Cristian Rosas-Grillet, Assistant City Attorney

SUBJECT

2018-O-027 An Ordinance of the City of Laredo, Texas, amending Chapter 23 "Parks and Leisure Services" by repealing section 23-8 "Prohibition regarding child sex offender in child safety zone" and replacing with a new section "Prohibition regarding sex offender in safety zone;" amending section 23-9 "Enforcement procedures" to restrict the activities of registered sex offenders who have committed crimes against children as well as adults; and providing for the following: findings of fact, penalty for violation, savings, severability, repealer, publication, and an effective date.

PREVIOUS COUNCIL ACTION

N/A

BACKGROUND

Section 23-8 of the Code of Ordinances prohibits sex offenders from entering a city park or loitering within 300 feet of a city park. This ordinance creates safety zones, which are defined as a city park or other place where children and females regularly congregate, and prohibits sex offenders from entering a safety zone or loitering within 300 feet of a safety zone. Further, this ordinance prohibits sex offenders from inviting trick-or-treaters to solicit their premises on October 31st of each year.

Additionally, this ordinance creates residency restrictions for sex offenders and makes it unlawful to let or rent property within 1,000 feet of a safety zone to a sex offender. Sex offenders would not be allowed to establish temporary or permanent residence within 1,000 feet of real property comprising a safety zone.

COMMITTEE RECOMMENDATION

N/A

STAFF RECOMMENDATION

Staff recommends that City Council approve this ordinance.

Fiscal Impact

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

N/A

Attachments

2018-O-027

**CITY OF LAREDO ORDINANCE NO.
2018-O-023**

AMENDING THE LAREDO LAND DEVELOPMENT CODE, ARTICLE VI, SECTION 24.94.5, BY REVISING THE CONDITIONAL USE PERMIT APPLICATION SUBMITTAL CRITERIA; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.
L-40

ORDINANCE NO. 2018-O-019

AMENDING THE ZONING ORDINANCE (MAP) OF THE CITY OF LAREDO BY REZONING APPROXIMATELY 16.96 ACRES, OUT OF D.M.J. SANCHEZ PORCION 22, ABSTRACT 277, LOCATED ON THE WEST END OF MONACO BLVD AND NORTH OF SHILOH DR., FROM R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT) TO R-1A (SINGLE FAMILY REDUCED AREA DISTRICT); PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.
L-44

ORDINANCE NO. 2018-O-020

AMENDING THE ZONING ORDINANCE (MAP) OF THE CITY OF LAREDO BY REZONING LOTS 6 AND 8, BLOCK 218, WESTERN DIVISION, LOCATED AT 1219 SAN DARIO AVE., FROM B-1 (LIMITED BUSINESS DISTRICT) TO B-3 (COMMUNITY BUSINESS DISTRICT); PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.
L-43

ORDINANCE NO.

AMENDING THE ZONING ORDINANCE (MAP) OF THE CITY OF LAREDO BY AUTHORIZING A PERMIT FOR TOWNHOMES, PHASE 1, BLOCK 1, HILLTOPHASE 1, LOCATED ON RD. 1; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.
L-46

ORDINANCE NO. 2018-O-011

AMENDING THE ZONING ORDINANCE (MAP) OF THE CITY OF LAREDO BY REZONING APPROXIMATELY .084 ACRES AS FURTHER DESCRIBED BY METES AND BOUNDS IN EXHIBIT A, LOCATED AT NORTH OF PITA MANGANA RD., AND EAST OF CUATRO VIENTOS RD., FROM R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT) TO B-4 (HIGHWAY COMMERCIAL DISTRICT); PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.
L-52

ORDINANCE NO. 2018-O-027

AN ORDINANCE OF THE CITY OF LAREDO, TEXAS, AMENDING CHAPTER 23 "PARKS AND LEISURE SERVICES" BY REPEALING SECTION 23-8 "PROHIBITION REGARDING CHILD SEX OFFENDER IN CHILD SAFETY ZONE" AND REPLACING WITH A NEW SECTION "PROHIBITION REGARDING SEX OFFENDER IN SAFETY ZONE," AND AMENDING SECTION 23-9 "ENFORCEMENT PROCEDURES" TO RESTRICT THE ACTIVITIES OF REGISTERED SEX OFFENDERS WHO HAVE COMMITTED CRIMES AGAINST CHILDREN AS WELL AS ADULTS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, PENALTY FOR VIOLATION; SAVINGS, SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.
L-38

ORDINANCE NO 2018-O-026

AN ORDINANCE OF THE CITY OF LAREDO, TEXAS, AMENDING CHAPTER 31 (UTILITIES), ARTICLE III, (WATER), DIVISION 3 (RATES AND CHARGES) SECTION 31-138 (WATER RATES) BY ADDING A FIXED MONTHLY WATER DEMAND FEE BASED ON METER SIZES AS STATED IN TABLE 4 (FROM \$1 TO \$50 BASED ON METER SIZE); AMENDING SECTION 31-138.1.1 (FEES) BY IMPLEMENTING NEW ACCOUNT CONNECTION FEES FOR SAME BUSINESS DAY SERVICE (FROM \$35 TO \$75 BASED ON THE NEED FOR METER SETUP); AMENDING SECTION 31-138.1.2 (SERVICE CHARGES) BY ADDING FEES FOR INSTALLATION OF TEE CONNECTIONS, REDUCING THE WATER TAP FEE FOR IRRIGATION METERS, AMENDING THE COST FOR 2" WATERLINE EXTENSIONS FOR SERVICE CONNECTIONS IF NEEDED, DELETING THE METER AND METER INSTALLATION FEE FOR 5/8" METER, AND REDUCING THE SECURITY DEPOSITS FOR NEW CUSTOMERS WHO ARE 65 YEARS OR OLDER AND VETERANS; CREATING SECTION OF 31-138.4 (REFUND SECURITY DEPOSITS); AMENDING SECTION 31-141(B) BY REDUCING THE CONNECTION FEES FOR RESIDENTIAL SERVICES TO A FLAT RATE, ADDING A WATER CONNECTION FEE FOR RESIDENTIAL SERVICES TO THE COLONIAS, AND REDUCING THE CONNECTION FEES FOR 8" COMMERCIAL METER, AMENDING SECTION 31-141(F) BY INCLUDING THE WATER DEMAND FEES; DELETING SECTION 31-141.1.1 (SECURITY DEPOSITS); PROVIDING FOR SEVERABILITY; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.
L-39

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