

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 54-15

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ARTICLE IV, "REGULATION OF SEX OFFENDER RESIDENCY," OF CHAPTER 50, "OFFENSES," OF THE CODE OF ORDINANCES TO EXPAND THE LIST OF PREMISES WHERE CHILDREN COMMONLY GATHER AND TO CREATE A NEW OFFENSE FOR PROVIDING A RESIDENCE TO A PERSON THAT WOULD VIOLATE THE RESIDENCY RESTRICTIONS CONTAINED IN THIS ORDINANCE; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Town Council finds and determines that child sex offenders represent a serious threat to public safety, and that the risk of recidivism posted by sex offenders is frightening and high; and

WHEREAS, the Town Council finds and determines that the Town has a legitimate interest in the protection of children and that the residency restrictions previously enacted provide protection for children in the Town by minimizing sex offenders' access and proximity to premises where children commonly gather; and

WHEREAS, the Town Council finds and determines that additional locations should be added to the list of premises where children common gather to provide additional protection for children in the Town; and

WHEREAS, in order to further minimize sex offenders' access to and proximity to premises where children commonly gather, the Town Council has determined that it is necessary and appropriate to make it unlawful to provide a residence to a person that would violate the residency restrictions contained in this ordinance; and

WHEREAS, the Town Council finds and determines that the adoption of this Ordinance is in the best interests of and necessary to protect the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

That Section 50-201 of the Code of Ordinance, Town of Flower Mound, Texas, is hereby amended to read as follows:

- “(a) It is unlawful for a person to establish a permanent or temporary residence within 2,000 feet of any premises where children commonly gather if the person is required to register on the Texas Department of Public Safety's Sex Offender Database (the "database") because of a conviction(s) involving a minor.
- (b) It is unlawful to lease, rent, or otherwise provide any residence, dwelling, place, structure or part thereof, 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 under this article. The determination of the distance between the residence and the premises where children commonly gather shall be measured as provided in this article.
- (c) For purposes of this article, premises where children commonly gather are deemed to be public parks including the Town's multi-use trail system, public playgrounds, private or public schools, public libraries, public swimming pools, semipublic swimming pools, public or private youth centers, day care centers, amusement parks and video arcade facilities, as those terms are or may be defined in Texas Health and Safety Code, Section 481.134, as amended. For purposes of this article, landscaped street medians are not public parks, and equestrian trails are not multi-use trails.”

SECTION 2

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 3

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 4

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the ordinances amended herein, which have accrued 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 courts.

SECTION 5

Any person, firm or corporation violating any term or provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine in

accordance with Section 1-13 of the Code of Ordinances, Town of Flower Mound, Texas, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 6

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption of this Ordinance in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 7

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 21st DAY OF SEPTEMBER, 2015.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY