

ORDINANCE NO. 2023-3373

AN ORDINANCE OF THE CITY OF BEDFORD, TEXAS AMENDING CHAPTER 22, BUILDING AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES BY AMENDING THE RESERVED ARTICLE VI TO CREATE A NEW ARTICLE "REGULATION OF SEX OFFENDER RESIDENCY;" PROVIDING FOR RESIDENCY RESTRICTIONS FOR CERTAIN SEX OFFENDERS; PROVIDING AFFIRMATIVE DEFENSES AND EXEMPTIONS; PROVIDING AN APPEAL PROCESS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bedford, Texas ("City"), 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 City Council of the City of Bedford finds and declares that sex offenders are a threat to public safety; and,

WHEREAS, the City Council finds from that the recidivism rate for released sex offenders is significant, especially for those who commit their crimes against children; and,

WHEREAS, the City Council finds from the evidence that restrictions on the proximity of sex offenders to schools or other facilities that might create temptation to repeat offenses are one way to minimize the risk of recidivism; and,

WHEREAS, the City Council finds that establishing a policy to restrict the property available for residence of registered sex offenders will provide better protection for children gathering in the City; and,

WHEREAS, the City Council desires to establish child safety zones and distance restrictions for registered sex offenders in order to protect the health, safety, and welfare of its residents.

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

SECTION 1. The above findings are hereby found to be true and correct, and are incorporated herein in their entirety.

SECTION 2. Chapter 22, "Buildings and Building Regulations," of the Code of Ordinances, City of Bedford, Texas is hereby amended by amending Article VI, "Reserved," to read as follows:

"Article VI. – Regulation of Sex Offender Residency

Sec. 22-229. – Definitions.

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

*Child* means a person younger than seventeen (17) years of age.

*Child-care facility* means a family day-care home that provides regular care to no more than four (4) children under fourteen (14) years of age, excluding children related to the caretaker, and provides care after school hours for not more than six (6) additional elementary school children, but the total number of children, including those related to the caretaker, shall not exceed twelve (12) at any given time.

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***Child-care institution*** means a commercial day-care center that provides regular care to any number of adults or children for less than twenty-four (24) hours per day.

***Child Safety Zone*** means:

- i. An institution of higher learning whether public, private, or religiously affiliated.
- ii. Premises where children commonly gather, to include public libraries, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public or commercial and semi-private swimming pools, child-care facilities, child-care institutions, public or private youth sports athletic fields, crisis centers or shelters, skate parks or rinks, public or private youth centers, movie theaters, bowling alleys, conservation areas, jogging trails, equestrian trails, hiking trails, bicycle trails, recreational centers, public playgrounds, or scouting facilities.

***Database*** means a computerized central database, maintained by the Department of Public Safety, containing the information required for sex offender registration.

***Halloween*** is a holiday typically celebrated on but not limited to October 31<sup>st</sup>, when children and their families go door-to-door to collect candy or treats.

***Loitering*** means standing, sitting idly, or remaining in or around, whether or not the person is in a vehicle.

***Managing Body*** means the supervisor, manager, owner, proprietor, or appointed leader of a given location.

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

***Temporary residence.*** 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, resides, or lodges for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

**Sec. 22-230. – Offenses.**

- (a) For each 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 ("Database") because of a reportable conviction or adjudication involving a victim younger than 17 years of age, it is unlawful for that person to establish a permanent residence or temporary residence within 2,000 feet of any Child Safety Zone.
- (b) It is an offense for any sex offender to loiter within 500 feet of a Child Safety Zone.
- (c) It is unlawful to sublet or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to the

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terms of this article, if such place, structure, or part thereof is located within 2,000 feet of any Child Safety Zone.

- (d) It is an offense for a person that is required to register on the Database to have an outdoor street-facing light(s) aglow and/or to hand out treats during Halloween if said light(s) are aglow. This applies to temporary and permanent residences.
- (e) 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 reportable conviction or adjudication of the person involving a victim younger than 17 years of age requiring them to register under Chapter 62, Code of Criminal Procedure.

**Sec. 22-231. – Conditions of acceptance into the City of Bedford.**

Prior to acceptance into the City of Bedford, a person who must register on the Database must have completed the following:

- (a) Communicated with the designated City of Bedford officer assigned to the Sex Offender Registry (“SOR”); and
- (b) The officer assigned to the SOR shall be given a minimum notice of seven (7) days to properly review the sex offender’s request to live in the City of Bedford. This notice shall be made by written demand, fax, phone call, email, or another form allowed by the Bedford Police Department. At the end of the review, the officer will notify the sex offender of the determination of the review by written demand, fax, phone call, email, or another form prescribed by the Bedford Police Department.

**Sec. 6-15-3. – Evidentiary matters; measurements.**

- (a) It shall be prima facie evidence that this article applies to such a person if that person’s record appears on the Database and the Database indicates that the victim was younger than 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 nearest portion of the property line of the permanent or temporary residence to the nearest property line of the Child Safety Zone, or, in the case of multiple residences on one property, the distance requirement shall be measured from the nearest portion of the building or structure used as a permanent or temporary residence by the sex offender, or the parking lot or driveway providing access thereto, whichever is closest to the nearest property line of the child safety zone.
- (c) A map depicting the prohibited areas shall be created by the City and maintained by the police department. The City shall review the map annually for changes. The map will be available to the public at the police department and can help with planning where sex offenders can move into the City of Bedford as Child Safety Zones change.

**Sec. 22-232. – Culpable mental state not required.**

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

**Sec. 22-233 – Exemption; affirmative defenses.**

- (a) A person who established residency in a temporary or permanent residence located within 2,000 feet of a Child Safety Zone before April 25, 2023, is exempt from the application of this chapter.
- (b) It is an affirmative defense to prosecution that any of the following conditions apply:
  - (1) The person required to register on the Database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
  - (2) The person required to register on the Database is a minor, as defined by the Texas Penal Code.
  - (3) The premises where children commonly gather, as specified herein, within 2,000 feet of the permanent or temporary residence of the person required to register on the Database, was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.
  - (4) The information on the Database is incorrect, and, if corrected, this chapter would not apply to the person who is listed on the Database.

**Sec. 22-234. – Appeal**

When special circumstances arise, a person required to register on the Database may invoke the following appeal procedure:

- (a) It will be on the individual appealing the applicability of this Ordinance to provide a written and notarized letter of appeal to the City Secretary. The written notice shall include the applicant's name, current mailing address, contact information and reason for the appeal. It is not required that the letter contain any information considered confidential by law. Any supporting documentation is required to be submitted with this letter.
- (b) The City Secretary will forward the submitted documentation to the mayor or designee. The mayor or designee, upon receiving the letter of appeal, shall schedule a public hearing before the City Council. The public hearing shall be held within 30 days of the mayor's receipt of the appeal letter.
- (c) The City Council shall conduct a public hearing, during which it may review any pertinent information and may accept written statements from any person.
- (d) Following the public hearing, the City Council shall decide, by majority vote, whether to grant or deny an exemption. An exemption

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may be unconditional or limited to a certain address and/or period of time.

- (e) A written copy of the official minutes of the meeting shall detail the decision, be retained by the City Secretary, and be subject to a public records request.

Examples of special circumstances may include, but are not limited to, staying with family due to medical problems, natural disaster, or court-ordered housing assignment.

**Sec. 22-235. – Penalty.**

Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined for each offense as provided in section 1-7 of this Code. Each day that a violation is permitted to exist shall constitute a separate offense.

**Sec. 22-236. – Governmental function; liability.**

All of the regulations provided in this article are hereby declared to be governmental and for the health, safety, and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this chapter, acting for the City in the discharge of their duties, shall not thereby render themselves personally liable; and they are hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of their said duties.

**Sec. 22-237. – Injunctive relief.**

Any violation of this chapter can be enjoined by a suit filed in the name of the City in a court of competent jurisdiction in Tarrant County, Texas, and this remedy shall be in addition to any penal provision in this chapter or in the Code of the City.

**Article VII. – Reserved.**

**Secs. 22-238-22-240. Reserved.”**

**SECTION 3.** This Ordinance shall be cumulative of all provisions of ordinances of the City of Bedford, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 4.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section 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 phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

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**SECTION 5.** All rights and remedies of the City of Bedford are expressly saved as to any and all violations any other ordinances affecting sex offender residency that 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 7.** That this Ordinance shall be in full force and effect from and after the date of its passage, and it is so ordained.

**PRESENTED AND PASSED** this 25th day of April 2023, by a vote of 7 ayes, 0 nays, and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

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**Michael Boyter, Mayor**

**ATTEST:**

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**Michael Wells, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

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**City Attorney**