

## ORDINANCE NO: 23-12

**An Ordinance Repealing the “Original Domicile Restriction” Contained in Section 5.8.5 of the City of Glendale Code, Adjusting the Residency Restriction Distances Contained in Section 5.8.3, and Amending Related Sections of Chapter 8, “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof,” of Title 5, “Public Safety,” of the City of Glendale Code of Ordinances**

At a regular meeting of the Common Council of the City of Glendale, Milwaukee County, Wisconsin held on this 22<sup>nd</sup> day of May 2023, a quorum being present and a majority of the Common Council voting therefore, said Council finds:

**WHEREAS**, the City of Glendale currently has in its Municipal Code Section 5.8, which is titled “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof”; and

**WHEREAS**, federal courts have addressed the constitutionality of certain elements of similar provisions throughout the United States in recent years; and

**WHEREAS**, the aforementioned court rulings support repeal of the “original domicile restriction” contained in City Code § 5.8.5; and

**WHEREAS**, the aforementioned court rulings support adjusting the residency restriction distances contained in City Code § 5.8.3; and

**WHEREAS**, the adjustment of the residency restriction distance requires amending related sections of Chapter 8, “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof,” of Title 5, “Public Safety,” of the City of Glendale Code of Ordinances;

**NOW THEREFORE**, the City Council does ordain as follows:

**SECTION 1**

Section 5.8.5, “Original Domicile Restriction,” of Chapter 8, “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof,” of Title 5, “Public Safety,” of the City of Glendale Code of Ordinances is hereby repealed in its entirety.

**SECTION 2**

Section 5.8.3, “Residency Restrictions,” of Chapter 8, “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof,” of Title 5, “Public Safety,” of the City of Glendale Code of Ordinances is hereby amended to read as follows:

A person shall not reside within one-thousand two hundred feet of the real property comprising any of the following:

- (a) Any facility for children (which means a public or private school, a group home, as defined in Wis. Stats. §48.02(7), a residential care center for children and youth, as defined in Wis. Stats. §48.02(15d), a shelter care facility, as defined in Wis. Stats. §48.02(17), a foster home, as defined in Wis. Stats. §48.02(6), a treatment foster home, as defined in Wis. Stats. §48.02(17q), a day care center licensed under Wis. Stats. §48.65, a day care program established under Wis. Stats. §120.13(14), a day care provider certified under Wis. Stats. §48.651, or a youth center, as defined in Wis. Stats. §961.01(22)); and/or
- (b) Any facility used for:
  - 1) a public park, parkway, parkland, park facility;
  - 2) a public swimming pool;
  - 3) a public library;
  - 4) a recreational trail;
  - 5) a public playground;
  - 6) a school for children;
  - 7) athletic fields used by children;
  - 8) a movie theatre;
  - 9) a daycare center;
  - 10) any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
  - 11) a public or private golf course or range; and
  - 12) aquatic facilities open to the public;

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above enumerated use(s).

### **SECTION 3**

Section 5.8.4, “Residency Restriction Exceptions,” of Chapter 8, “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof,” of Title 5, “Public Safety,” of the City of Glendale Code of Ordinances is hereby amended to read as follows:

A person residing within one-thousand two hundred feet of the real property comprising any of the uses enumerated in 5.8.3 above, does not commit a violation of this chapter if any of the following apply:

- a) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
- b) The person has established a residence prior to the effective date of this Ordinance which is within one-thousand two hundred feet of any of the uses enumerated in 5.8.3 above, or such enumerated use is newly established after such effective date and it is located within such

one-thousand two hundred feet of a residence of a person which was established prior to the effective date of this Chapter.

- c) The person is a minor or ward under guardianship.

#### **SECTION 4**

Section 5.8.8, “Violations,” of Chapter 8, “Residency Restrictions for Sex Offenders and Directing Action for Injunctive Relief for Violation Thereof,” of Title 5, “Public Safety,” of the City of Glendale Code of Ordinances is hereby amended to read as follows:

If a person violates any provision of this Chapter, by establishing a residence or occupying residential premises within one-thousand two hundred feet of those premises as described therein, without any exception(s) as also set forth above, the City Attorney, upon referral from the Chief of Police and the written determination by the Chief of Police that upon all of the facts and circumstances and the Purpose of this Chapter, such residence occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the City in the Circuit Court for Milwaukee County to permanently enjoin such residency as a public nuisance. If a person violates any provision of this Chapter, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under 1.1.7 of the Glendale Code. Each day a violation continues shall constitute a separate offense.

#### **SECTION 5**

That all Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby to such extent repealed.

#### **SECTION 6**

That this Ordinance shall take effect and be in force from and after its passage and posting.

PASSED AND ADOPTED by the Common Council of the City of Glendale, Milwaukee County, Wisconsin, this 22<sup>nd</sup> day of May 2023.

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Bryan Kennedy, Mayor

Countersigned:

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Megan Humitz, City Clerk