

## **ORDINANCE 06-1170**

**AN ORDINANCE OF THE CITY OF LUMBERTON, TEXAS, DEFINING CERTAIN TERMS; MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING EXCEPTIONS TO THE ORDINANCE; PROHIBITING PROPERTY OWNERS FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS; PROVIDING PENALTIES FOR VIOLATIONS OF THE ORDINANCE; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND FINDING FACT.**

**WHEREAS**, the Mayor and City Council of the City of Lumberton, Texas, are deeply concerned about the numerous and recent occurrences in our state and elsewhere, whereby convicted sex offenders who have been released from custody repeat the unlawful acts for which they had been originally convicted; and

**WHEREAS**, the Mayor and City Council of the City of Lumberton, Texas, find from the evidence the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and

**WHEREAS**, the City is becoming an increasingly attractive place for younger families with small children; and

**WHEREAS**, the Mayor and City Council of the City of Lumberton, Texas, desire to establish a policy which provides maximum protection of the lives and persons of the City of Lumberton; and,

**WHEREAS**, Article 42.12 (13B) of the Texas Code of Criminal Procedure, provides a 1,000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses; and

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

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

### **Section One (1): Findings and Intent**

That repeat sexual offenders, sexual offenders that use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

It is the intent of this ordinance to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residences.

## **Section Two (2): Definitions**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Permanent residence” means a place where the person abides, lodges or resides for 14 or more consecutive days. “Temporary residence” means a place where the person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year which is not the person’s permanent residence, or a place where the person routinely abides, resides or lodges for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person’s permanent residence.

## **Section Three (3): Sexual Offenders Residence Prohibition; Penalties; Exceptions**

- (a) It is unlawful for any person who has been convicted of a violation of Article 43.25 Penal Code, Article 43.26 Penal Code, Article 21.08 Penal Code, Article 21.11 Penal Code, Article 22.011 Penal Code, Article 22.021 Penal Code and Article 25.02 Penal Code, regardless of whether the adjudication was deferred, in which the victim of the offense was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within 1,000 feet of any premises where children commonly gather, including but not limited to, a school, day care facility, playground, public or private youth center, public swimming pool, or video arcade facility, as those terms are defined in Article 481.134 of the Health and Safety Code of the State of Texas.
- (b) For the purpose 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, as described herein.
- (c) Penalties. Any person, firm or corporation who violates this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine consistent with penalties under the laws of the State of Texas.
- (d) Exceptions. A person residing within 1,000 feet of those places where children commonly gather, as specified herein, does not commit a violation of this ordinance if any of the following apply:
  - (1) The person established the permanent or temporary residence and has complied with all the sex offender registration laws of the State of Texas, prior to the date of the adoption of this ordinance.
  - (2) The person was a minor when he/she committed the offense and was not convicted as an adult.
  - (3) The person is a minor.
  - (4) The premises where children commonly gather, as specified herein, within 1,000 feet of the person’s permanent or temporary residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.

## **Section four (4): Property Owners Prohibited from Renting Real Property to Sexual Offenders; Penalties**

- (a) It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, 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 terms of this ordinance, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within 1,000 feet of any premises where children commonly gather, including but not limited to, a school, day care facility, playground, public or private youth center, public swimming pool, or video arcade facility, as those terms are defined in Article 481.134 of the Health and Safety Code of the State of Texas.
- (b) Penalties. Any person, firm or corporation who violates this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine consistent with penalties under the laws of the State of Texas.

**Section Five (5): Repealer.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**Section Six (6): Severability.**

If any section, subsection or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

**Section Seven (7): Effective Date.**

This ordinance shall be effective from and after the date of its passage.

**PASSED AND ADOPTED** on the 28<sup>th</sup> day of August, 2006.

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Don Surratt  
Mayor

ATTEST:

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Susan Collins  
City Secretary