

ORDINANCE NO. 123

AN ORDINANCE OF THE CITY OF LOG CABIN, REPEALING ORDINANCE NUMBER 118 OF THE CITY OF LOG CABIN; MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; MAKING IT ILLEGAL TO LOITER WITHIN 300 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING EXCEPTIONS TO THE ORDINANCE; AND PROVIDING PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

WHEREAS, the City Council of the City of Log Cabin, Texas (“City”) in an effort to protect the general welfare and safety of the citizens of the City, and more specifically, the Children of the City, find it to be in the best interest of the City to protect citizens and Children from convicted Sex Offenders;

WHEREAS, the City Council of the City of Log Cabin, Texas finds it to be appropriate and in the best interest of its citizens to place restrictions on the residency and the ability of Sex Offenders to Loiter or remain in an area where Children gather;

WHEREAS, the City Council of the City of Log Cabin, Texas desires to pass this Ordinance in an effort to provide maximum protection of the Children and citizens of the City;

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 the authority to adopt Ordinances for the good of the government, peace, order and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Log Cabin, Texas as follows:

I. PURPOSE AND INTENT.

The City Council for the City of Log Cabin, Texas finds that Sex Offenders who are required to register as a sexual predator under Texas Code of Criminal Procedure, Chapter 62, present an extreme threat to the health, safety, and welfare of Children. It is the intent of this Ordinance to serve the City’s compelling interest to promote, protect, and improve the health, safety, welfare of the citizens of the City by creating areas around certain locations in the City where Children regularly congregate and concentrate in numbers wherein certain registered Sex Offenders and sexual predators are prohibited from Loitering or prohibited from establishing Temporary or Permanent Residency.

II. DEFINITIONS.

A. For the purposes of this Ordinance, the following terms and words shall have the following meaning:

1. ***Sex Offender.*** Means an individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a person under seventeen (17) years of age for which the individual is required to register as a Sex Offender under Chapter 62, Texas Code of Criminal Procedure.

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

3. ***Temporary Residence.*** A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days in the aggregate, during any calendar year and which is not the person's permanent address, or place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's Permanent Residence.

4. ***Child or Children.*** Means any person under the age of seventeen (17).

5. ***Child Care Facility and/or Institution.*** Any location that provides care or supervision to Children from 0-16 years of age.

6. ***Child Safety Zone.*** Public parks, private and public parks, 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 athletic fields, crisis center or shelter, skate park or rink, public or private youth center, movie theater, bowling alley, scouting facilities, and offices for child protective services.

7. ***Database.*** The Texas Department of Public Safety Sex Offender Database.

8. ***Loiter.*** Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around an area.

9. ***Park or Playground.*** Means one of the following:

(i) any land, including improvements to the land that is administered, operated, or managed by the City for the use of the general public as a recreational area.

(ii) City recreational areas, include, but are not limited to, bus stops, conservation areas, jogging trail, hiking trails, bicycle trails, recreational vehicle parks, recreational centers, water parks, swimming pools, or athletic fields.

10. Public Way. 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 use of the public.

11. School. Means a private or public preschool, private or public elementary school, private or public secondary school.

III. SEX OFFENDER PROHIBITION

A. It is an offense for a Sex Offender to establish a Permanent Residence or Temporary Residence within 1,000 of the real property comprising a School, Child Care Facility or Institution, Park or Playground, or other places where Children regularly congregate.

B. It is an offense for a Sex Offender to knowingly enter a Child Safety Zone as defined in Section II.A.6.

C. It is an offense for a Sex Offender to knowingly Loiter on a Public Way within 300 feet of a Child Safety Zone, park or playground as defined in Sections II.A.6. and II.A.9.

D. A Sex Offender shall not, on each October 30 and 31 (or any other date set by the City for trick or treaters) between the hours of 4:00 p.m. – 11:00 p.m. leave an exterior porch light on or otherwise invite trick or treaters to solicit the premises.

IV. EVIDENTIARY MATTERS

It shall be prima facie evidence that this section applies to such a person if that person's record appears in/on the Database and the Database indicates that the victim was less than seventeen (17) years of age.

V. EXCEPTIONS

A. The person required to register in/on the Database established the Permanent Residence or Temporary Residence prior to the date of this Ordinance and has complied with all of the Sex Offender registration laws of the State of Texas.

B. The place where Children regularly congregate as specified herein, within 1,000 feet of the Permanent or Temporary Residence of the person required to register

on/in the Database was open after the person established their Permanent or Temporary Residence and complied with all Sex Offender registration laws of the State of Texas.

C. The information on/in the Database is incorrect, and, if corrected, this Ordinance would not apply to the person who is erroneously listed on/in the Database.

D. The person required to register on/in the Database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.

E. 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 Procedures.

F. The person required to register has had the offense for which the Sex Offender registration was required reversed on appeal or pardon.

G. The person's duty to register on/in the Database has expired.


H. Nothing in this provision shall require any person to sell or otherwise dispose of any real estate acquired or owned prior to the conviction of the person as a Sex Offender.

VI. 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 shall be fined in an amount not to exceed the maximum amount allowed by law. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

Duly PASSED and APPROVED by the City Council of the City of Log Cabin, Texas on this 19 day of November, 2009.

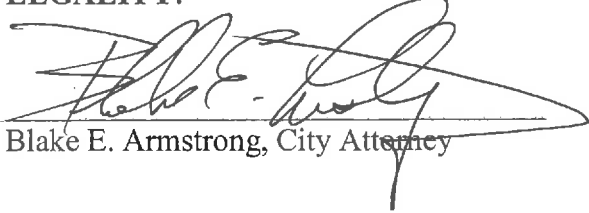
APPROVED BY:


Billy Goodwin, Mayor

ATTEST:


Pat Hayes, City Secretary

APPROVED AS TO FORM AND LEGALITY:


Blake E. Armstrong, City Attorney