

ORDINANCE NO. 2012-31

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF STEPHENVILLE BY REVISING THE REGULATION OF SEXUAL OFFENDERS ORDINANCE CHAPTER 130.84; REQUIRING PUBLICATION OF SAID ORDINANCE; AND PROVIDING A PENALTY FOR VIOLATION.

WHEREAS, city council has determined the need to further protect persons under 17 years of age from sexual predators it is necessary to further define child safety zones.

WHEREAS, city council has determined that in order to comply with the Texas Education Code section 38.022, which authorizes the local school district to establish its own policies for allowing parents on campus when those parents are sex offenders, it is necessary to revise Chapter 130.84 of the code of ordinances.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEPHENVILLE, TEXAS:

Chapter 130 "Regulation of Sexual Offenders-Exceptions" of the Code of Ordinances of the City of Stephenville is revised to read as follows:

130.80 Purpose and Intent.

The City Council of the City Of Stephenville finds that sex offenders who are required to register as sexual predators under V.T.C.A., 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 subchapter 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 registered sex offenders and sexual predators are prohibited from loitering or prohibited from establishing temporary or permanent residency.

130.81 Definitions.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Child. Any person under the age of 17.

Child Care Facility. As defined by City of Stephenville Zoning Ordinance.

Child Care Institution. As defined by City of Stephenville Zoning Ordinance.

Child Safety Zone. —Is defined as but not limited to:

- A. Public parks,
- B. Private and public schools;
- C. Public library;
- D. Amusement arcades or video arcades;
- E. Indoor and outdoor amusement centers or amusement parks, or carnivals, circuses, fairs or fair grounds;
- F. Public, commercial and semi-private swimming pools;
- G. Child care facility or child care institution;

- H. Public or private youth soccer, football or baseball field;
- I. Crisis center or shelter;
- J. Skate park or rink;
- K. Public or private youth center;
- L. Movie theater;
- M. Bowling alley;
- N. Scouting facilities;
- O. Any public or private group, location or activity that regularly provides athletic, civic or cultural activities that includes as participants or recipients persons who are 17 years of age or younger, including but not limited to Safe Trick or Treat, Christmas on the Square and Vacation Bible Schools;
- P. Offices for Child Protective Services.

Database. The Texas Department of Public Safety's Sex Offender Database or the Sex Offender Registration files maintained by the Sex Offender Registration Officer of the Stephenville Police Department.

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

Park or Playground. One of the following:

1. Any land, including improvements to the land, that is administered, operated or managed by the City of Stephenville for the use of the general public as a recreational area.
2. City recreational areas include, but are not limited to, conservation area, jogging trail, hiking trail, bicycle trail, recreational center, waterpark, swimming pool, football field, soccer field or baseball field.

Permanent Residence. A place where the person abides, lodges or resides for 14 or more consecutive days.

Places where children regularly congregate. Same as Child Safety Zone.

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.

School. A private or public pre-school, private or public elementary school or private or public secondary school.

Sex Offender. An individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a person under 17 years of age for which the individual is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure.

Temporary Residence. A place where a person abides, lodges or resides for a period of 14 or more days in the aggregate, during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

130.82 Sex Offender Prohibition.

- A. It is an offense for a sex offender to establish a permanent residence or temporary residence within 1,000 feet of the real property comprising a school, child care facility, child care 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.
- C. It is an offense for a sex offender to knowingly loiter on a public way within 300 feet of Child Safety Zone.
- D. A sex offender shall not, on each October 30th and 31st, or any other date set by the city for trick-or-treaters, between the hours of 4:00 p.m. and 11:00 p.m., leave an exterior porch light on or otherwise invite trick-or-treaters to solicit the premises.

130.83 Evidentiary Matters.

- A. If a sex offender who is prohibited from being in a Child Safety Zone is found in a Child Safety Zone by a police officer, the sex offender is subject to punishment in accordance with this subchapter.
- B. It shall be prima facie evidence that this subchapter 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 17 years of age.
- C. The distance of 300 feet from a Child Safety Zone shall be measured on a straight line from the closest boundary of the Child Safety Zone.
- D. The distance of 1,000 feet from a place where children congregate shall be measured on a straight line from the closest boundary line of the sex offender's residence to the closest boundary line of the school, child care facility, child care institution, park or playground or other places where children regularly congregate.
- E. In the case of multiple residences on one property, measurement shall be made from the nearest property line of the residences to the nearest property line of the school, child care facility, child care institution, park or playground or other places where children regularly congregate.
- F. In cases of a dispute over measured distances, it shall be incumbent upon the person(s) challenging the measurement to prove otherwise.
- G. A map depicting the prohibited areas shall be created by the City of Stephenville and maintained by the Stephenville Police Department. The City of Stephenville shall review the map annually for changes. Said map will be available to the public at the Stephenville Police Department or available on the City of Stephenville Website or Stephenville Police Department Website.

130.84 Exceptions.

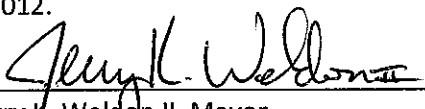
- A. The person required to register in/on the database established the permanent residence or temporary residence and residency has been consistently maintained and the person has complied with all of the Sex Offender Registration laws of the State of Texas, prior to the date of the adoption of this subchapter.
- 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 in/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 of Texas.

- C. The information in/on the database is incorrect, and, if corrected, this subchapter would not apply to the person who was erroneously listed in/on the database.
- D. The person required to register in/on 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 is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution located within 1,000 feet of the real property comprising a school, child care facility, child care institution, park or playground or other places where children regularly congregate.
- F. The person required to register is under 18 years of age or a ward under a guardianship, who resides with a parent or guardian.
- G. 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 Procedure.
- H. The person required to register has had the offense for which the sex offender registration was required, reversed on appeal or pardoned.
- I. The person's duty to register in/on the database has expired.
- J. 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 conviction of the person as a sex offender.
- K. The person is adhering to local school policy or is otherwise preempted from this Section by State Law.

130.85 Penalty.

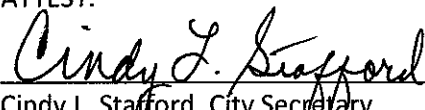
Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed the maximum amount allowed by law. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

PASSED and APPROVED this 4th day of December, 2012.

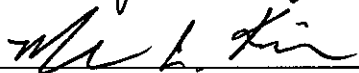


 Jerry K. Weldon II, Mayor

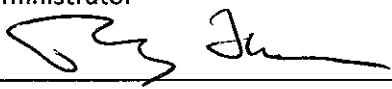
ATTEST:



 Cindy L. Stafford, City Secretary



 Reviewed by Mark A. Kaiser,
 City Administrator



 Approved as to form and legality
 Randy Thomas, City Attorney