
ORDINANCE NO. 2024-004

**AN ORDINANCE OF THE CITY OF EAST BERNARD, TEXAS, PROVIDING
FOR THE REGULATION OF SEX OFFENDER RESIDENCY.**

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Whereas, in its 85th Legislative Session, the Texas Legislature adopted section 341.906 of the Texas Local Government Code, authorizing general-law municipalities to adopt regulations limiting registered sex offenders within the corporate boundaries of the municipality, and

Whereas, the Board of Alderman of the City of East Bernard, Texas, finds it to be in the best interest of the health, safety, and welfare of the residents to adopt regulations limiting registered sex offenders within the City's boundaries as set forth in this ordinance, now, therefore.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF EAST BERNARD,
TEXAS:**

The Board of Alderman 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 article 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.

Sec. 1. Definitions.

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

Child safety zone. Public parks, private and public schools, public libraries, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public or commercial and semi-private swimming pools, childcare facilities, childcare institutions, public or private youth soccer or baseball fields, crisis centers or shelters, public or private youth centers, scouting facilities and offices for child protective services.

Database. The Texas Department of Public Safety's Sex Offender Database.

Loiter. Standing, sitting idly, whether the person is in a vehicle or remaining in or around an area.

Measurement. Made in a straight line, without regard to intervening structures or objects, from the nearest portion of the residence to the nearest property line of the child safety zone.

Minor. A person younger than 17 years of age.

Park or playground. Any land, including improvements to the land used as a public as a recreational area. Recreational areas include, but are not limited to, conservation areas, jogging trails, hiking trails, bicycle trails, recreational centers, water parks, swimming pools, soccer fields or baseball fields.

Permanent residence. A place where a person abides, lodges, or resides for 5 or more consecutive days.

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 Vernon's Ann. C.C.P. Ch. 62, as it exists at the time of the adoption of this Ordinances or as it may be amended or renumbered thereafter.

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 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.

State law reference(s)—The meanings in this section have been assigned by V.T.C.A., Health and Safety Code, § 481.134.

Sec. 2. Offenses.

- (a) For each person required to register on the Texas Department of Public Safety's Sex Offender Database (the "database") because of a violation involving a victim who was less than 17 years of age, it is unlawful for that person to establish a permanent residence or a temporary residence within 1,000 feet of any premises where children commonly gather, which, for purposes of this division, shall be a park or playground; school; other such facility or location described in a child safety zone; or other places where children regularly congregate; as such terms are defined in this division.
- (b) 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 sex offender's permanent or temporary residence.
- (c) It is an offense for a sex offender to knowingly enter a child safety zone.
- (d) It is an offense for a sex offender to knowingly loiter on a public way within 300 feet of a child safety zone.

Sec. 3. Evidentiary matters; measurements.

- (a) If a sex offender is found in a child safety zone by a police officer, the sex offender is subject to punishment in accordance with this division.
- (b) It shall be prima facie evidence that this division applies to a person if that person's record appears in/on the database and such 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 park or playground; school; other such facility or location described in a child safety zone; or other places where children regularly congregate.

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- (e) In the case of multiple residences on one property, measuring from the nearest property line of the residences to the nearest property line of the park or playground; school; other such facility or location described in a child safety zone; 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 East Bernard and maintained by the City of East Bernard. The City of East Bernard shall review the map annually for changes. Said map will be available to the public at the City of East Bernard or available on the City of East Bernard website.

Sec. 4. Exceptions.

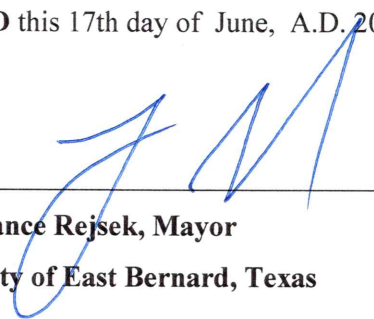
- (a) The person required to register in/on the database established the permanent residence or temporary residence prior to the date of the adoption of this division, and residency has been consistently maintained and the person has complied with all the sex offender registration laws of the State of Texas.
- (b) The park or playground; school; other such facility or location described in a child safety zone; or other places 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 division would not apply to the person who was erroneously listed in/on the database;
- (d) The person required to register in/on the database is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution located within 1,000 feet of real property comprising a park or playground; school; other such facility or location described in a child safety zone; or other places where children regularly congregate;
- (e) The person required to register in/on the database is under 18 years of age or a ward under a guardianship, who resides with a parent or guardian;
- (f) The person required to register in/on the database has been exempted by a court order from registration as a sex offender under Vernon's Ann. C.C.P. Ch. 62;
- (g) The person required to register in/on the database has had the offense for which the sex offender registration was required, reversed on appeal or pardoned; or
- (h) The person's duty to register in/on the database has expired.
- (i) 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.

Sec. 5. Penalty.

Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

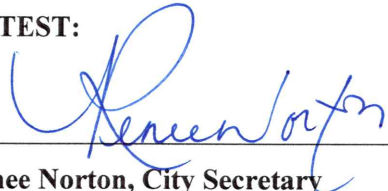
This ordinance shall be effective immediately upon its passage and approval.

PASSED, APPROVED, AND ADOPTED this 17th day of June, A.D. 2024.



Lance Rejsek, Mayor
City of East Bernard, Texas

ATTEST:



Renee Norton, City Secretary
City of East Bernard, Texas