

ORDINANCE NO. 4-2006

AN ORDINANCE OF THE VILLAGE OF BONNEY, TEXAS, DEFINING CERTAIN TERMS; MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 1000 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 PART OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND FINDING FACT.

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WHEREAS, the Mayor and City Council of the Village Of Bonney, Texas (the “City”), 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, 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 desire to establish a policy which provides maximum protection of the lives and persons of the City; and

WHEREAS, Article 42.12(13B) of the Texas Code of Criminal Procedure, provides a 1000 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;

BE IT ORDAINED BY THE CITY COUNCIL OF, THE VILLAGE OF BONNEY TEXAS:

Section 1. The facts and finds set forth in the preamble are hereby found to be true and correct.

Section 2. **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 offences, 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 3. **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 shall mean 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 and which is not the person's permanent address, 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 4. Sexual Offenders Residence Prohibition; Penalties; Exceptions. It is unlawful for any person who has been convicted of a violation of Article 4125 Penal Code, Article 43.26 Penal Code, Article 21.08 Penal Code, Article 21.11 Penal Code, Article 22.011 Penal Codes, Article 22.021 Penal Code and Article 25.02 Penal Code, regardless of whether the adjudication was deferred, in which the victim of the offence was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within 1000 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.

- (a) 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.
- (b) Exceptions. A person residing within 1000 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 1000 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 5. Property Owners Prohibited from Renting Real Property to Sexual Offenders; Penalties.

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 1000 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.

Section 6. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violate any provision of this Ordinance 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.

Section 7. All ordinances or parts or ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 8. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the Village Of Bonney, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this _____.

PASSED, APPROVED, AND ADOPTED on second and final reading this
_____.

Raymond Cantu, Mayor

ATTEST:

Martha Henderson, City Secretary