

## DIVISION 5. - SEX OFFENDER RESIDENCY

### Sec. 22-135. - Definitions.

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

*Juvenile* means a person younger than 17 years of age.

*Permanent residence* means place where a person abides, lodges or resides for 14 or more consecutive days.

*Temporary residence* means 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.

(Ord. No. 06-31, § 2, 8-7-2006)

### Sec. 22-136. - Limitation.

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 temporary residence within 1,000 feet of any premises where children commonly gather, which, for purposes of this division, shall be a private or public park, private or public playground, private or public school or day care center, public or private youth center, public swimming pool or video arcade facility, as such terms are defined in the city's Unified Development Code, as it exists or may be amended, homeowners association swimming pools or commercial pools located in residential subdivisions. For the purposes of defining a premises, any portion of a property, on which a residence is established, that adjoins or is located within 1,000 feet shall be included in these regulations. If any term used in this division is not defined in the city's Unified Development Code, the terms shall have the meaning ascribed by V.T.C.A., Health and Safety Code § 581.134, as it exists or may be amended. For the purposes of this division, the premises stated in this section are depicted on a map of the city which is attached to the ordinance from which this section is derived and labeled "Exhibit A." In addition, planted street medians shall not be considered as public parks.

(Ord. No. 06-31, § 2, 8-7-2006; Ord. No. 08-20, § 1, 4-21-2008; Ord. No. 14-31, § 1, 7-21-2014)

### Sec. 22-137. - Evidentiary matters; measurements.

- (a) It shall be prima facie evidence that this division applies to such a person if that person's record appears on the database and the database indicates that the victim was less than 17 years of age.
- (b) For the purposes 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 in section 22-136, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the premises where children commonly gather, as described in this division.
- (c) A map depicting the prohibited areas shall be maintained by the city and made available to the public at the city police department. The city shall review the map at least annually for changes.

- (1) Culpable mental state not required. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this division.
- (2) Affirmative defenses. It is an affirmative defense to prosecution that any of the following conditions apply:
  - a. The person required to register on the database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the state, as they exist or may be amended, prior to the date of the adoption of the ordinance from which this division is derived; provided, however, such person shall be required to continuously maintain compliance with all of the sex offender registration laws of the state, as they exist or may be amended, after the adoption of the ordinance from which this division is derived.
  - b. The person required to register on the database was a juvenile when he or she committed the offense requiring such registration and was not convicted as an adult.
  - c. The person required to register on the database is a juvenile.
  - d. The premises where children commonly gather, as specified in this division, within 1,000 feet of the permanent or temporary residence of the person required to register 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, as they exist or may be amended. Such person shall be required to continuously maintain compliance with all of the sex offender registration laws of the state, as they exist or may be amended.
  - e. The information on the database is incorrect, and, if corrected, this division would not apply to the person who was erroneously listed on the database.

(Ord. No. 06-31, § 2, 8-7-2006; Ord. No. 14-31, § 1, 7-21-2014)

Sec. 22-138. - Notice.

- (a) The police department will notify the residents of the city the information of all persons required to register as a Sex Offender under Article 62.02 of the Texas Code of Criminal Procedure anytime an offender moves into or within the city.
- (b) Within 15 business days of receiving notice of moving from a registered sex offender, the police department will send written notice providing the same information to all city residential addresses within 1,500 feet of the registrant's new home address.

(Ord. No. 14-31, § 1, 7-21-2014)