

ARTICLE VIII. SEX OFFENDER RESIDENCY RESTRICTIONS

Sec. 15-80. Definitions.

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

Child safety zone means a premises where children commonly gather. The term includes a public or private school, public or private day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, public park, or any other facility that regularly holds events primarily for children.

Minor means a person younger than 17 years of age.

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

Playground means any outdoor facility that is not on the premises of a school and that:

- (1) Is intended for recreation;
- (2) Is open to the public or is open to a neighborhood or multi-family residential property containing more than two families; and
- (3) Contains at least one play station intended for the recreation of children, such as slides, swing sets, and teeterboards.

Premises means real property and all buildings and appurtenances pertaining to the real property.

Registered sex offender means an individual who is required to register as a sex offender under Vernon's Ann. Code of Criminal Procedure Art. 62.

School means a private or public elementary or secondary school or a day-care center, as defined by Vernon's Ann., Human Resources Code § 42.002.

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.

Video arcade facility means any facility that:

- (1) Is open to the public, including persons who are 17 years of age or younger;
- (2) Is intended primarily for entertainment or recreational purposes; and
- (3) Contains at least three pinball or video machines.

Youth center means any recreational facility or gymnasium that:

- (1) Is intended primarily for use by persons who are 17 years of age or younger; and
- (2) Provides athletic, civic, or cultural activities.

Sec. 15-81. Offense.

(a) *Generally.*

- (1) It is unlawful for a registered sex offender to establish a permanent or temporary residence within 1,500 feet of any child safety zone if the person is required to register because of a conviction involving a minor.
- (2) A registered sex offender may not leave an exterior porch light or otherwise invite or entice trick-or-treaters to come to their residence on October 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.

(b) *Evidentiary matters; measurements.*

- (1) It shall be prima facie evidence that this article applies to a person if that person's information appears on the central database maintained by the Texas Department of Public Safety as required by Vernon's Ann. C.C.P. art. 62.005.
- (2) 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 child safety zone.
- (3) A map depicting the prohibited areas shall be maintained by the City. Said map will be available to the public for inspection at the City police department.

(c) *Culpable mental state not required.* Neither allegation nor evidence of a culpable mental state is required for the offense defined under this section.

(d) *Affirmative defenses.* It is an affirmative defense to prosecution that any of the following conditions apply:

- (1) The registered sex offender entered into a residential lease, rental agreement, or purchase of a residence in a child safety zone prior to the date of the adoption of this article.
- (2) The registered sex offender was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
- (3) The registered sex offender is a minor or a ward under guardianship.
- (4) The child safety zone, as specified herein, within 1,500 feet of the permanent or temporary residence of the registered sex offender was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.
- (5) The registered sex offender maintains a permanent or temporary residence at a jail, prison, juvenile facility or other correctional institution or facility.
- (6) The information on the sex offender registry database is incorrect, and, if corrected, this article would not apply to the person who was erroneously listed on the database.

(e) *Exemption hearing.*

- (1) A registered sex offender may petition the police chief or the police chief's designee, in writing, for an exemption from the requirements of this article.
 - (2) The police chief or the police chief's designee shall exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date this article is adopted. This exemption applies only to:
 - a. Areas necessary for the registered sex offender to have access to and to live in the residence; and
 - b. The period the registered sex offender maintains residency in the residence.
 - (3) The police chief or the police chief's designee may authorize an exemption from this article when, in their opinion, undue hardship will result from compliance or an individualized recidivist assessment indicates an exemption should be granted. In granting an exemption, the police chief or the police chief's
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designee shall consider the probable effect the exemption will have upon the public health, safety, and welfare of the community.

Sec. 15-82. Penalties.

Any person violating any provision of this article shall be fined not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs. An offense under this article is a class C misdemeanor.