

## **ORDINANCE NO. 350**

**AN ORDINANCE RELATING TO DEFINITIONS, RESTRICTIONS ON REGISTERED SEX OFFENDERS' RESIDENCY, PROHIBITING REGISTERED SEX OFFENDERS FROM RESIDING WITHIN 1,000 FEET OF THE REAL PROPERTY COMPRISING A SCHOOL, DAYCARE FACILITY OR PUBLIC PARK OR PLAYGROUND WITHIN THE CITY LIMITS; PROVIDING EXCEPTIONS; PROVIDING PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST ORANGE, TEXAS:**

**WHEREAS**, the West Orange Police Department currently has 15 registered sex offenders living within the city limits; and

**WHEREAS**, a majority of these sex offenders are no longer on probation or parole; or

**WHEREAS**, Article 42.12 (13B) of the Texas Code of Criminal Procedure provides a 1,000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses; and

**WHEREAS**, data exists which indicates that sex offenders re-offend after being released; and

**WHEREAS**, restrictions on the proximity of child sex offenders to schools, daycare facilities and public parks and playgrounds are one way to minimize the risk of re-offending; and

**WHEREAS**, several states and cities have enacted laws and ordinances which restrict where child sex offenders may reside; 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; and

**WHEREAS**, 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 of West Orange by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders are prohibited from establishing residences.

**NOW THEREFORE BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST ORANGE, TEXAS:**

That the Code of Ordinances of the City of West Orange is hereby amended by adding RESIDENCE RESTRICTIONS ON REGISTERED SEX OFFENDERS, which shall read as follows:

### **Section 1 – Definitions**

The following words, terms and phrases, when used in this Ordinance, shall have the meaning defined as follows, except where the context clearly indicates a different meaning:

1. "Child" means an individual younger than seventeen (17) years of age.
2. "Daycare facility" includes a "child-care institution," a "daycare center," and/or a "group daycare home," as those terms are defined by Section 42.002, Human Resources Code.

3. "Park" or "playground" means any land, including improvements to the land that is administered, operated or managed by the City of West Orange for the use of the general public as a recreational area.
4. "Residence" means a place where a person abides, lodges or resides for a period of four (4) or more days in the aggregate, during any calendar year.
5. "Sex offender" means an individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a child for which the individual is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure.
6. "School" means a private or public elementary or secondary school.

## **Section 2 – Offenses**

1. It is an offense for a sex offender to intentionally, knowingly, recklessly or with criminal negligence, to establish a residence within one thousand (1,000) feet of the real property comprising a school, daycare facility, park or playground.
2. The distance of one thousand (1,000) feet 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, daycare facility, park or playground.

## **Section 3 – Exceptions**

A person does not commit an offense under Section 2 if the person:

1. Is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution located within one thousand (1,000) feet of the real property comprising a school, daycare facility, park or playground;
2. Has established and continues to maintain the residence prior to the effective date of this Ordinance;
3. Has established and continues to maintain the residence prior to the effective date of this Ordinance and, subsequently a school, daycare facility, park or playground is constructed or located within one thousand (1,000) feet of the sexual offender's residence;
4. Is under eighteen (18) years of age or a ward under a guardianship, who resides with a parent or guardian;
5. Has been exempted by a court order from registration as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or
6. Has had the offense for which the sex offender registration was required, reversed on appeal or pardoned.

## **Section 4 – Penalties**

Any person who violates this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount allowed by state law for violation(s) of City Ordinances or as the case may be, Laws of the State of Texas, each day of such violations constituting a separate offense.

## **Section 5 – Repealing Clause**

All ordinances or parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed; provided however that such repeal shall be only to the extent of such inconsistency and in all other respects the Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance.

**Section 6 – Severability Clause**

If any section, subsection, sentence, clause or phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this Ordinance are declared to be severable.

**Section 7 – Effective Date**

This Ordinance shall take effect from and after its passage by the West Orange City Council and publication. The City Secretary is hereby directed to give notice hereof by causing the caption of this ordinance to be published in a local newspaper of general circulation.

**READ, PASSED, APPROVED AND AUTHENTICATED** the 14<sup>th</sup> day of August 2006.

*/s/ Roy McDonald*

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Roy McDonald, Mayor  
City of West Orange, Texas

ATTEST:

*/s/ Theresa Van Meter*

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Theresa Van Meter, City Secretary

APPROVED:

*/s/ Joe Alford*

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Joe Alford, City Attorney