

## ORDINANCE NO. 2013-2

AN ORDINANCE OF THE CITY OF JAMAICA BEACH, TEXAS, TO PROVIDE THE REGULATION OF SEX OFFENDER RESIDENCY IN THE CITY OF JAMAICA BEACH; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

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**WHEREAS**, the City Council of the City of Jamaica Beach, Texas deems it in the best interest of law enforcement and the citizens to adopt this ordinance for the establishment and the regulation of sex offender residency; and,

**WHEREAS**, this ordinance covers topics that include finding and intent, definitions, residency prohibition, penalty, and exceptions;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, TEXAS:**

**SECTION 1.** The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

### ARTICLE I. IN GENERAL

(1.) Finding and intent.

The City Council finds that sex offenders that use physical violence and who are convicted of preying on children are sexual predators who present an extreme threat to the health, safety and welfare of children. Sex offenders are likely to use physical violence, to repeat an offense, have many more victims that are ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.

(2.) Definitions.

The following words, terms, and phrases when used in this section, shall have the meaning ascribed to them in this subsection, unless the context of their usage clearly indicates another meaning.

*Permanent residence* means 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 four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

- (3.) Sex offender residency prohibition; penalty; and exceptions.
- (a) If a person is required to register on the department of public safety's sex offender database because of a violation involving a victim who is less than 17 years of age, it is unlawful for that person to establish a permanent residence or temporary residence within 2,500 feet of any premise where children commonly gather, including a playground, school, day care facility, video arcade facility, public or private youth center, public swimming pool, public park, beach or church as those terms are defined in Article 481.134 of Health and Safety Code of the State of Texas. It shall be prima facie evidence that this chapter applies to such person if the person's record appears on the database and the database indicates that the victim was less than 17 years of age.
  - (b) 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, or in the case of multiple residences on one property, measuring from the nearest wall of the building or structure occupied or the parking/driveway, which ever is closer to the nearest property line of the premises where children commonly gather, as described herein.
  - (c) It is unlawful to stop, sit, park stand or loiter for any period of time exceeding the amount of time reasonably necessary to engage in legitimate activity within 2,500 feet of such facilities and locations as designated in the article.
  - (d) *Penalty.* Any person violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine not less than fifty dollars (\$50.00), not to exceed five hundred dollars (\$500.00).
  - (e) *Exceptions.* Nothing in this ordinance shall be interpreted to modify or reduce the State's child safety ban. A person, as described in subsection (1), residing within 2,500 feet of those places where children commonly gather does not commit a violation of this chapter if any of the following apply:
    - (1) The person establishes 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 the article;
    - (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 2,500 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.
    - (5) The person proves that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person.
- (4.) Property owners prohibited from renting real property to sex offenders; penalty.

- (a) 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 chapter, if such place, structure or part thereof, manufactured home, trailer, or other conveyance is located within 2,500 feet, as defined in subsection (3) (b), of any premises where children commonly gather, including a playground, school, day care facility, video arcade facility, public or private youth center, public swimming pool, public park, beach or church as those terms are defined in Article 481.134 of the Texas Health Safety Code.
- (b) *Penalty.* Any person, firm or corporation violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine not less than fifty dollars (\$50.00), not to exceed five hundred dollars (\$500.00).

**SECTION 2.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 3.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 4.** This Ordinance shall be and become effective from and after its adoption.

**APPROVED AND ADOPTED** this the 11<sup>th</sup> day of March, 2013.



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VICTOR PIERSON, MAYOR

ATTEST:



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LUPE RUSHING, CITY SECRETARY