

**CITY OF JAMAICA BEACH
ORDINANCE 2018-4**

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; PROVIDING VIOLATIONS AND PENALTIES; PROVIDING FOR THE REPEAL OF ALL OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 in the City of Jamaica Beach; and,

WHEREAS, this ordinance covers topics that include finding and intent, definitions, residency prohibition, penalty, and exceptions; provides for the repeal of all or parts of Ordinances in conflict herewith, severability, and an effective date.

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.

Child safety zone means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children. The term does not include a church, as defined by Section 544.251, Insurance Code. Playground, premises, school, video arcade facility, and youth center have the meanings assigned by Section 481.134, Health and Safety Code.

Registered sex offender means an individual who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(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 1,000 feet of a child safety zone, as described in subsection (2). 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 child safety zone, as described in subsection (2), 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, whichever is closer to the nearest property line of the child safety zone, as described in subsection (2).
- (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 1,000 feet of such facilities and locations as designated in this Ordinance.
- (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 registered sex offender, as described in subsection (2), residing within 1,000 feet of a child safety zone, as described in subsection (2), does not commit a violation of this chapter if any of the following apply:
 - (1) The registered sex offender 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 this Ordinance;
 - (2) The registered sex offender was a minor when he/she committed the offense and was not convicted as an adult;
 - (3) The registered sex offender is a minor;
 - (4) The child safety zone, as described in subsection (2), within 1,000 feet of the registered sex offender's permanent or temporary residence was opened

after the registered sex offender established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.

- (5) The registered sex offender 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 1,000 feet, as described in subsection (3) (b), of any child safety zone, as described in subsection (2).
- (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 17th day of September 2018.

CITY OF JAMAICA BEACH, TEXAS



STEVE SPICER, MAYOR

ATTEST:



LUPE RUSHING, CITY SECRETARY