

ORDINANCE NO. 15-2083

AN ORDINANCE OF THE CITY OF LAKE JACKSON, TEXAS, AMENDING CHAPTER 77 SEX OFFENDERS TO RAISE THE MAXIMUM FINE TO \$2,000 AND TO MAKE ALLOWING A PERSON TO LIVE IN A RESIDENCE IN VIOLATION OF CHAPTER 77 AN OFFENSE; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH SHALL BE REPEALED TO THE EXTENT OF THE CONFLICT ONLY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECIVE DATE

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:

Section 1: That Chapter 77 of the Code of Ordinances of the City of Lake Jackson is hereby amended to add the following:

Sec. 77-1. - Findings and intent.

Repeat sex offenders, sex offenders that use physical violence and sex offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses and most sex offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, clearly exorbitant.

It is the intent of this chapter to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city preventing sex offenders from establishing residences near locations where children regularly gather.

Sec. 77-2. - Definitions.

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Premises where children commonly gather means any public or private

1. Playground, school, video arcade facility, or youth center as those terms are defined in Ch. 481 of the Texas Health and Safety Code;
2. Day care facility;
3. Swimming pool; or
4. Children's oriented eating establishments.

Property owner means any property owner of record; any person, firm, or corporation who has contractual responsibility for the property; or any person, firm or corporation who has the legal right of possession of the property.

Residence means a temporary or permanent place where a sex offender lives, lodges, resides, or stays as an overnight guest, or a place that a sex offender registers as his or her residence with the Texas Department of Public Safety under Texas Code of Criminal Procedure Ch. 62.

Sex offender means a sex offender who is required to register under Ch. 62 of the Texas Code of Criminal Procedure due to a violation involving a victim who was less than seventeen (17) years of age.

Sec. 77-3. - Sex offenders residence location prohibition; penalties; exceptions.

- (a) It is unlawful for a sex offender to establish a residence within one thousand (1,000) feet of any premises where children commonly gather. It shall be prima facie evidence that this chapter applies to a sex offender if the sex offender's record appears on the Texas Public Sex Offender Registry and the registry indicates that the victim was less than seventeen (17) years of age.
- (b) For the purpose of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest property line of the premises where children commonly gather.
- (c) Exceptions. A sex offender residing within one thousand (1,000) feet of those places where children commonly gather does not commit a violation of this chapter if any of the following apply:
 - (1) The sex offender established the residence and complied with all the sex offender registration laws of the State of Texas, prior to May 1, 2006.
 - (2) The sex offender was under the age of 18 when he/she committed the offense and was not convicted as an adult.
 - (3) The sex offender is under the age of 18.
 - (4) The premises where children commonly gather that is within one thousand (1,000) feet of the sex offender's residence was opened after the sex offender established the residence and after the sex offender complied with all sex offender registration laws of the State of Texas.
 - (5) The sex offender provides adequate documentation showing that the information on the registry is incorrect and that, if corrected, this chapter would not apply to that person.

Sec. 77-4. - Property owner prohibitions

- (a) It is unlawful for any property owner to rent, sell, or allow a sex offender to live in any building, structure, manufactured home, or trailer with the knowledge that it will be used or is being used as a residence by any person prohibited from establishing such residence under the terms of this chapter.
- (b) It is prima facie evidence that the property owner knew that the building, structure, manufactured home, or trailer would be used or was being used as a residence of a sex offender if the Lake Jackson Police Department provided written notification to the person, firm or corporation.

Sec. 77-5. - Halloween.

- (a) On October 30 and 31 of each year between the hours of 4:00 p.m. and 11:00 p.m., a sex offender shall:
1. Display a Lake Jackson Police Department issued sex offender residence sign on all accessible exterior doors of his or her residence; and
 2. Post a Lake Jackson Police Department issued sex offender residence sign in front of the sex offender's residence in a manner that makes the wording visible from the street. If the sex offender lives on a premises that does not face a street, such as an apartment, the sign shall be posted in a manner that the wording is clearly visible to the residents and visitors of the building in which the sex offender lives; and
 3. Turn off all exterior porch lights and refrain from displaying Halloween decorations.

Sec. 77-6. - Penalties.

- (a) A violation of this ordinance governs the public health of Lake Jackson residents. Therefore, upon conviction, any person, firm or corporation that violates this ordinance shall be assessed a fine not to exceed \$2,000.00.
- (b) A culpable mental state is not required for the commission of an offense under this chapter and need not be proven.

Section 2: Unless otherwise specified in the ordinance, a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-5 of the Code of Ordinances of the City of Lake Jackson. Each day that a violation of this ordinance shall be considered a separate violation.

Section 3: All ordinances or part of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4: If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of the ordinance.

Section 5. The City Secretary shall publish the caption of this ordinance within ten (10) days of final passage in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after publication in accordance with Section 3-15 of the Charter of the City of Lake Jackson, Texas.

PASSED on the first reading this 16th day of November 2015.

PASSED AND APPROVED on second reading this 7th day of December 2015.

Joe Rinehart, Mayor

ATTEST:

Alice A. Rodgers
City Secretary

APPROVED AS TO FORM:

Sherri Russell
City Attorney