

ARTICLE 8.03 RESIDENCY RESTRICTIONS FOR SEX OFFENDERS AGAINST CHILDREN

Sec. 8.03.001 Findings; intent

Repeat sexual offenders, sexual offenders that use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual 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 sexual offender victimization to society at large, while incalculable, clearly exorbitant. It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residences. (Ordinance 06-10-534, sec. 2 (1.1(a)), adopted 10/10/06)

Sec. 8.03.002 Definitions

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

Minor. A person younger than seventeen (17) years of age.

Permanent residence. A place where a person abides, lodges or resides for fourteen (14) or more days.

Premises where children commonly gather. Public parks, private and public schools, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public, commercial and semiprivate swimming pools, and child day care centers, as such terms are defined in the city zoning ordinance, or any public or nonprofit recreational facility, including, any homeowner's association recreational facility.

Public parks. Includes all parks currently in existence that are designated in the city parks, recreation and open space master plan, specifically including all hike/bike trails or greenbelts listed in such plan or part of the city trail network master plan. For purposes of this article, planted street medians are not public parks.

Temporary residence. Either a place where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where a person routinely abides, resides or lodges for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(Ordinance 08-01-635, sec. 2, adopted 1/15/08)

Sec. 8.03.003 Penalty

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be fined no more than five hundred dollars and no cents (\$500.00) for each violation of this article. Each day that a violation is permitted to exist shall constitute a separate offense. (Ordinance 06-10-534, sec. 3, adopted 10/10/06)

Sec. 8.03.004 Offenses; measurements

(a) Offenses. It is unlawful for any person required to register on the state department of public safety's sex offenders database (the "database") because of a violation involving a victim who was less than seventeen (17) years of age to establish a permanent residence or temporary residence within one thousand (1,000) feet of any premises where children commonly gather, as defined in this article.

(b) Evidentiary matters; measurements.

(1) It shall be prima facie evidence that this section applies to such a person if that person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age. For the purposes of determining the minimum distance separation, the requirement shall be measured as follows:

(A) For residences which are single-family residences as defined in the city zoning ordinance, by

following a straight horizontal line from the outer property line of the lot on which the permanent or temporary residence is located to the nearest property line of the premises where children commonly gather, as defined in this article; or

(B) For residences which are multifamily residences as defined in the city zoning ordinance, by following a straight horizontal line from the closest door of the residence to the nearest property line of the premises where children commonly gather, as defined in this article.

(2) A map depicting the prohibited areas shall be maintained by the chief of police of the city. The city shall review the map at least annually for changes. Said map will be available to the public at the city police department.

(c) Culpability. Neither allegation nor evidence of a culpable mental state is required for proof of an offense under this section.

(Ordinance 06-10-534, sec. 2 (1.2), adopted 10/10/06)

Sec. 8.03.005 Defenses

It is an affirmative defense to prosecution under this article that any of the following conditions apply:

(1) The person required to register on the database established the permanent or temporary residence prior to the date of the adoption of this article and has complied with all of the sex offender registration laws of the state.

(2) The person required to register on the database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.

(3) The person required to register on the database is a minor.

(4) The premises where children commonly gather, as specified herein, within one thousand (1,000) feet of the permanent or temporary residence of the person required to register on the database was opened after the person established the permanent or temporary residence and the person required to register on the database has complied with all sex offender registration laws of the state.

(5) The information in the database is incorrect, and, if corrected, this section would not apply to the person who was erroneously listed on the database.

(Ordinance 06-10-534, sec. 2 (1.3), adopted 10/10/06)