



ORDINANCE 2012-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS, MAKING IT UNLAWFUL FOR CERTAIN SEX OFFENDERS TO RESIDE WITHIN 1,500 FEET OF PREMISES WHERE MINORS COMMONLY GATHER; PROVIDING THAT A CULPABLE MENTAL STATE IS NOT REQUIRED FOR COMMITTING AN OFFENSE UNDER THIS ARTICLE OF THE TOM BEAN CITY CODE; PROVIDING FOR DEFENSES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Tom Bean finds and declares that sex offenders are a serious threat to public safety; and

WHEREAS, the City Council finds that the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes against children; and

WHEREAS, the City Council seeks to restrict sex offenders from living in areas close to where children commonly gather in order to provide better protection for children in the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS:

Sex Offender Residency.

(a) Definitions.

For the purposes of this Section, the following terms, words, phrases and the derivations thereof shall have the meaning given herein.

1. Minor means a person younger than seventeen (17) years of age.
2. Permanent Residence means a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

3. Premise where minors commonly gather means a school, child-care facility, playground, Public Park, video arcade area, or The Path for Life Student Center.
4. School means any public or private school that has a curriculum for kindergarten, elementary, secondary, or high school education and that exists apart from a child's home.
5. Specified Sex Offender means any person required to register as a sexual offender on the Texas Department of Public Safety's Sex Offender Database (the "Database") under Chapter 62 of the Texas Code of Criminal Procedure for a reportable conviction or adjudication of any of the following violations:
 - (A) Indecency with a child, as described in Section 21.11 of the Texas Penal Code, as amended;
 - (B) Sexual assault of a child, as described in Section 22.011 of the Texas Penal Code, as amended;
 - (C) Aggravated sexual assault of a child, as described in Section 22.021 of the Texas Penal Code, as amended;
 - (D) Sexual performance by a child, as described in Section 43.25 of the Texas Penal Code, as amended; or
 - (E) Possession or promotion of child pornography, as described in Section 43.26 of the Texas Penal Code, as amended.
6. Temporary Resident shall mean 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 address, 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.
 - (b) It is unlawful for a person who is a specified sex offender to establish a permanent residence or temporary residence with 1,500 feet of any premise where minors commonly gather.
 - (c) Neither allegations nor evidence of a culpable mental state is required for the proof of an offense defined by this Section.

That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time; place and purpose of said meetings were given all as required by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF TOM BEAN, TEXAS
THIS 9TH DAY OF JANUARY, 2012.**

Mayor

Attest:

City Secretary