

ORDINANCE NO. 2025-08-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 70, "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE IX, "SEX OFFENDERS", OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS BY AMENDING THE RESIDENCY REQUIREMENTS FOR REGISTERED SEX OFFENDERS; PROVIDING A PENALTY; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of McKinney, Texas ("City Council") previously adopted certain residency requirements for sex offenders via Ordinance No. 2010-08-029, as amended by Ordinance No. 2012-03-008, currently codified as Chapter 70, Article IX of the City's Code of Ordinances; and

WHEREAS, the City Council finds, determines, and declares that sex offenders continue to be a serious threat to public safety; and

WHEREAS, the City Council finds and determines 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 finds and determines that further amending the residency requirements for registered sex offenders is in the best interest of the residents of the City of McKinney and will provide better protection for children in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. FINDINGS

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. AMENDING CHAPTER 70, "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE IX, "SEX OFFENDERS", OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS BY AMENDING THE RESIDENCY REQUIREMENTS FOR REGISTERED SEX OFFENDERS

From and after the effective date of this Ordinance, Chapter 70, "Offenses and Miscellaneous Provisions," Article IX, "Sex Offenders," of the Code of Ordinances of the City of McKinney, Texas, is hereby amended to read as follows:

"ARTICLE IX. – SEX OFFENDERS

Sec. 70-220. - Residency requirements of sex offenders.

(a) *Definitions.* For the purposes of this article, the following terms, words, and derivations thereof shall have the following meanings:

(1) *Amenity center, neighborhood* has the meaning assigned to it under Section 205.F of the City's Unified Development Code, as codified in Chapter 150 of the City's Code of Ordinances, as amended.

- (2) *Child care center.* Premises for operation of a child day care, as defined in 26 Texas Administrative Code Section 745.33, but excluding a child day care operation located at the residence of a child day care permit-holder.
- (3) *Child safety zone.* Premises where unrelated children commonly gather, including, but not limited to: a playground, school, video arcade facility, or youth center as those terms are defined in Section 481.134 of the Texas Health and Safety Code; child care center; park; library; skatepark; commercial entertainment, indoor; commercial entertainment, outdoor; public swimming pool; amenity center, neighborhood; facility and offices for Children's Advocacy Center of Collin County; and gym or fitness studio.
- (4) *Commercial entertainment, indoor* has the meaning assigned to it under Section 205.F of the City's Unified Development Code, as codified in Chapter 150 of the City's Code of Ordinances, as amended.
- (5) *Commercial entertainment, outdoor* has the meaning assigned to it under Section 205.F of the City's Unified Development Code, as codified in Chapter 150 of the City's Code of Ordinances, as amended.
- (6) *Gym or fitness studio* has the meaning assigned to it under Section 205.F of the City's Unified Development Code, as codified in Chapter 150 of the City's Code of Ordinances, as amended.
- (7) *Minor.* A person younger than seventeen (17) years of age.
- (8) *Park* has the meaning assigned to it under Section 74-1 of the City of McKinney Code of Ordinances, as amended.
- (9) *Public swimming pool* has the meaning assigned to it under Section 94-2 of the City of McKinney Code of Ordinances, as amended.
- (10) *Premises.* Real property and all buildings and appurtenances pertaining to the real property.
- (11) *Register or registry.* Texas Public Sex Offender Registry maintained by the Texas Department of Public Safety, pursuant to Chapter 62, Texas Code of Criminal Procedure.
- (12) *Reportable conviction* or adjudication has the meaning assigned in Chapter 62, Texas Code of Criminal Procedure, as amended.
- (13) *Residence.* Premises where a person resides or intends to reside for more than seven (7) consecutive days, including but not limited to a house, townhouse, condominium, apartment, duplex, hotel, motel, or extended-stay facility. Residence is established at the beginning of ownership of a residence or the beginning of tenancy, rental period or use of a residence by written or verbal agreement.
- (14) *Skatepark* has the meaning assigned to it under Section 74-1 of the City of McKinney Code of Ordinances, as amended.

(b) *Offense.*

- (1) It is unlawful for a person to establish residence within two thousand (2,000) feet of any part of a child safety zone if the person is required to register on the Texas Public Sex Offender Registry because of a reportable conviction or adjudication.
- (2) For purposes of this offense section, if any part of the premises containing the residence is within two thousand (2,000) feet of a child safety zone, then the entire premises is in a child safety zone.

(c) *Evidentiary matters; measurements.*

- (1) It shall be prima facie evidence that this section applies to a person if that person's record appears on the database.
- (2) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to the nearest property line of the premises of the child safety zone, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises of the residence to the nearest property line of the premises of the child safety zone.
- (3) A map depicting the prohibited areas shall be maintained by the city. The city shall review the map annually for changes. Said map will be available to the public at the city secretary's office.
- (4) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense under this article.

(d) *Affirmative Defenses.* It is an affirmative defense to prosecution that any of the following conditions apply:

- (1) The person required to register established the residence prior to the date of arrest for a reportable conviction or adjudication. For purposes of this affirmative defense, where premises contain multiple units, the defendant must prove by preponderance of the evidence that residence was established prior to the date of arrest in the same individual dwelling unit as the unit resided in at the time of commission of the offense. This affirmative defense shall not apply should the person who is required to register move from the residence established prior to the date of arrest and establish a residence elsewhere.
- (2) The person required to register was a minor at the time of offense requiring such registration and was not certified as an adult for criminal prosecution. This affirmative defense shall not apply should the person required to register move from the residence established prior to their seventeenth (17th) birthday and establish a residence elsewhere.
- (3) The premises of the child safety zone was opened after the person required to register established the residence, and the person has maintained compliance with all sex offender registration laws of the State of Texas. This affirmative defense shall not apply should the person required to register

move from the residence established prior to the opening of the premises of said child safety zone and establish a residence elsewhere.

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

(e) *Penalty.* A person who violates a provision of this article shall be guilty of a misdemeanor and upon conviction, shall be punished as provided in Section 1-18, and each and every violation or day such violation shall constitute or exist, shall be deemed a separate offense.”

Section 3. PROVIDING A PENALTY

Any person, firm or corporation violating or failing to comply with any of the provisions of this Ordinance shall be subject to the penalty provisions set forth in Section 1-18 of the City’s Code of Ordinances; and each and every day such violation or failure to comply shall continue shall be deemed to constitute a separate offense.

Section 4. REPEALER CLAUSE

All ordinances, orders, or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, conflict with this Ordinance.

Section 5. SAVINGS CLAUSE

All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. SEVERABILITY CLAUSE

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 7. PUBLICATION OF CAPTION

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council’s adoption hereof as provided by law.

Section 8. EFFECTIVE DATE

This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, ON THE 18TH DAY OF AUGUST, 2025.

CITY OF McKINNEY, TEXAS

BILL COX
Mayor
GERÉ FELTUS
Mayor Pro Tem

CORRECTLY ENROLLED:

EMPRESS DRANE, TRMC
City Secretary
TENITRUS PARCHMAN, TRMC
Deputy City Secretary

DATE:_____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney
ALAN LATHROM
Assistant City Attorney