

ORDINANCE NO. 599-2006

AN ORDINANCE OF THE CITY OF DICKINSON CITY, TEXAS AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES ENTITLED "OFFENSES-MISCELLANEOUS," BY THE ADDITION OF A NEW ARTICLE IX ENTITLED "REGULATION OF SEX OFFENDER RESIDENCY," MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 2000 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING EXCEPTIONS TO THE ORDINANCE; PROVIDING PENALTIES FOR VIOLATIONS OF THE ORDINANCE, INCLUDING, BUT NOT LIMITED TO A FINE NOT TO EXCEED \$2,000.00 PER DAY OF CONTINUING VIOLATION; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND MAKING FINDINGS OF FACT.

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WHEREAS, the City of Dickinson, Texas (herein the "City") is a home rule city having authority to utilize police power regulation for the health, safety and general welfare of the citizens of the city; and

WHEREAS, the City Council of the City of Dickinson is deeply concerned about the numerous and recent occurrences in our state and elsewhere whereby sex offenders convicted of sexual offenses involving children have been released from custody and repeat the unlawful acts for which they had been originally convicted; and

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

WHEREAS, the City is becoming an increasingly attractive place for families with young children; and

WHEREAS, the City Council finds that establishing a policy to restrict the property available for residence of sex offenders will provide better protection for children gathering in the city; and

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code and the City Charter, provide the City authority to adopt ordinances for the good government, peace, order and welfare of the municipality; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DICKINSON, STATE OF TEXAS:

Section 1. That Chapter 12 of the Code of Ordinances of the City of Dickinson, Texas, is hereby amended by adding a new Article IX, Regulation of Sex Offender Residency, as follows:

“Secs. 12-135– 12-150 Reserved.

Article IX. Regulation of Sex Offender Residency.

Sec. 12-151 Finding and Intent

The City Council of the City of Dickinson, Texas finds that repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the health, safety and welfare of children. Sexual offenders are extremely likely to use physical violence and to repeat their offense 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 ordinance 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.

Sec. 12-152 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:

PERMANENT RESIDENCE shall mean a place where a person abodes, lodges or resides for 14 or more consecutive days:

RECURRING VISITOR shall mean a person who on at least three (3) occasions during any month spends more than 48 consecutive hours in the City.

TEMPORARY RESIDENCE shall mean a place where the person abodes, 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 abodes, resides or lodges for a period of

4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 12-153 Sex Offender residency prohibition, penalty, and exceptions.

(a) If a person is required by Chapter 62 of the Texas Code of Criminal Procedure to register with a local law enforcement agency because of a violation involving a victim who was less than seventeen (17) years of age, it is unlawful for that person to establish a permanent residence, establish a temporary residence, or to be a recurring visitor at a residence, located within 2,000 feet of any premises where children commonly gather including but not limited to, a school, day care center, playground, public or private youth center, public swimming pool or video arcade facility, as those terms are defined in Sections 341.064 and 481.134 of the Health and Safety Code of the State of Texas and Section 42.002 of the Human Resources Code of the State of Texas.

(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 premises where children commonly gather, as described herein, 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, which ever is closer to the nearest property line of the premises where children commonly gather as described herein. A map generally depicting the prohibited areas or zones is attached to this ordinance for representation purposes. The city shall review this map at least annually for changes and make such map available for public inspection at the Dickinson Police Department.

(c) In cases of a dispute over measured distances, it shall be incumbent upon the person(s) challenging the measurement to prove otherwise.

(d) Any person, firm or corporation that violates this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty section 1-5 of the Code of Ordinances.

(e) Nothing in this ordinance shall be interpreted to modify or reduce the State's child safety ban. A person, as described in subsection (a), residing within 2000 feet of those places where children commonly gather, as specified herein, does not commit a violation of this ordinance if any of the following apply:

- (1) The person established 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 person was a minor when he/she committed the offense and was not convicted as an adult;
- (3) The person is a minor;
- (4) The premises where children commonly gather, as specified herein, within 2000 feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas; or
- (5) The person proves that the information on the Database is incorrect and that, if corrected, this chapter would not apply to the person.

Sec. 12-154 Injunctive Relief.

Any violation of this ordinance may be enjoined by a suit filed in the name of the City of Dickinson, Texas in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of Ordinances of the City of Dickinson.”

Section 2. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision contained in this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000.00. Each day of violation shall constitute a separate offense.

Section 3. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed. Should any section or part of this ordinance be held unconstitutional, illegal or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or

portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. The City Secretary of the City of Dickinson is hereby directed to publish this ordinance, or its caption and penalty clause, in the official city newspaper as required by the Charter of the City of Dickinson.

Section 5. This ordinance shall be effective from and after its passage and publication in the newspaper as required by the Dickinson Charter.

PASSED AND APPROVED on first reading this 12th day of September, 2006.

PASSED AND APPROVED on second and final reading this 26th day of September, 2006.

PASSED, APPROVED, AND ADOPTED on third and final reading this _____ day of _____, 2006.

Julie Masters
Mayor

ATTEST:

Rena Hardage
City Secretary