

ORDINANCE NO. 3056

**AN ORDINANCE OF THE CITY OF CARROLLTON, TEXAS, AMENDING CHAPTER 130 OF THE CARROLLTON CITY CODE TO ADD SECTION 130.24 MAKING IT UNLAWFUL FOR CERTAIN SEX OFFENDERS TO RESIDE WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING THAT A CULPABLE MENTAL STATE IS NOT REQUIRED FOR COMMITTING AN OFFENSE UNDER SECTION 130.24 CHAPTER 130 OF THE CARROLLTON CITY CODE; PROVIDING FOR AFFIRMATIVE DEFENSES; PROVIDING FOR SEVERABILITY; A PENALTY OF \$500; SAVINGS, REPEAL, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Carrollton determines and declares that sex offenders are a serious threat to public safety; and

**WHEREAS**, the City Council 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 determines 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**, Article 42.12 (13B) of the Texas Code of Criminal Procedure provides a 1,000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS:**

**SECTION 1.**

That Chapter 130 of the Carrollton City Code shall be amended by the addition of the following Section 130.24:

**Sec. 130.24. Regulation of Sex Offender Residency.**

*(A) Definitions.* For the purposes of this Section, the following terms, words, and the derivations thereof shall have the meanings given herein.

- 1) *Minor.* A minor is a person younger than seventeen (17) years of age.
- 2) *Permanent Residence.* A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- 3) *Temporary Residence.* A place where a person abides, 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 a person routinely abides, 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.

(B) *Offenses.*

1) For each person required to register on the Texas Department of Public Safety's Sex Offender Database (the "Database") because of a violation involving a victim who was less than sixteen (16) years of age, it is unlawful for that person to establish a permanent residence or temporary residence within 1,000 feet of any premise where children commonly gather, which, for purposes of this ordinance, shall be a public park; private or public school; or day care center, as such terms are defined in the Comprehensive Zoning Ordinance of the City of Carrollton. For the purposes of this Ordinance, planted street medians are not public parks.

2) *Evidentiary matters; measurements.*

a) 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 sixteen (16) years of age.

b) 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 permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein above, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the premises where children commonly gather, as described herein.

c) A map depicting the prohibited areas shall be maintained by the City of Carrollton. The City shall review the map at least annually for changes. Said map will be available to the public at the Carrollton Police Department.

4) *Culpable mental state not required.*

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this Chapter.

5) *Affirmative defenses.*

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

- a) The person required to register on the Database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the State of Texas, prior to the date of the adoption of this ordinance.
- b) 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.
- c) The person required to register on the Database is a minor.
- d) The premises where children commonly gather, as specified herein, within 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 complied with all sex offender registration laws of the State of Texas.
- e) The information on the Database is incorrect, and, if corrected, this Section would not apply to the person who was erroneously listed on the Database.

**SECTION 2.**

A violation of any of the provisions of this ordinance shall be deemed to be a misdemeanor and, upon conviction of such violation, such violation shall be punished by a penalty of fines as set forth in 10.99 for each offense.

**SECTION 3.**

That, save and except as amended by this ordinance, Title XIII, and Chapters 130 of the Carrollton City Code shall remain in full force and effect.

**SECTION 4.**

That the provisions of this ordinance are severable in accordance with Section 10.07 of the Carrollton City Code.

**SECTION 5.**

That all ordinances or parts of ordinances in conflict with this ordinance are specifically repealed.

**SECTION 6.**

That this ordinance shall become effective from and after its passage and publication.

**PASSED AND APPROVED** by the City Council of the City of Carrollton, Texas this  
2nd day of May, 2006.

CITY OF CARROLLTON, TEXAS

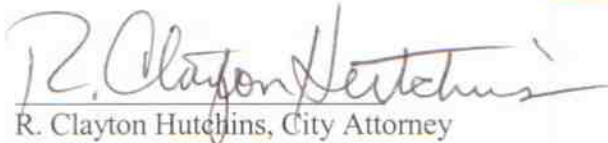
  
Becky Miller, Mayor

ATTEST:

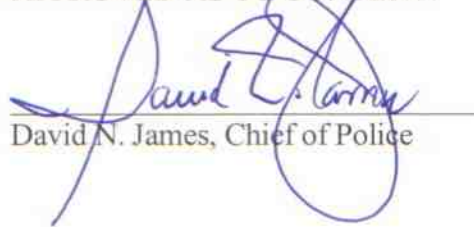
  
Ashley Mitchell, City Secretary



APPROVED AS TO FORM:

  
R. Clayton Hutchins, City Attorney

APPROVED AS TO CONTENT:

  
David N. James, Chief of Police