

**An Ordinance of the City of Plano, Texas repealing in its entirety Ordinance No. 2006-7-10; adopting a new Section 14-123 of Article IX. Residency Restrictions for Child Predator Offenders of Chapter 14 Offenses – Miscellaneous of the Code of Ordinances of the City of Plano, Texas to expand the offenses that require registration for sex offenders to include any offense a person is required to register on the Texas Department of Public Safety’s Sex Offender Database under Article 62.001 of the Texas Code of Criminal Procedure; simplifying the definition of residence; redefining the term “where children commonly gather” to be consistent with the language in Article 42A.453 of the Code of Criminal Procedure; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.**

**WHEREAS**, on July 24, 2006, the City Council of the City of Plano enacted Ordinance No. 2006-7-10 to regulate regulation of sex offender residency; and

**WHEREAS**, staff recommends updating Section 14-123 to be consistent with Articles 62.001 and 42A.453 of the Texas Code of Criminal Procedure; and

**WHEREAS**, after consideration of the recommendation of staff and all matters attendant and related thereto, the City council is of the opinion that it is in the best interest of the City and its citizens that Section 14-123 of Article IX. Residency Restrictions for Child Predator Offenders of Chapter 14 Offenses – Miscellaneous of the Code of Ordinances of the City of Plano, Texas be adopted as set forth herein.

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

**Section I.** Ordinance No. 2006-7-10 is repealed in its entirety.

**Section II.** Section 14-123 of Article IX. Residency Restrictions for Child Predator Offenders of Chapter 14 Offenses – Miscellaneous of the Code of Ordinances of the City of Plano, Texas is hereby adopted to read in its entirety as follows:

**“Sec. 14-123. Regulation of sex offender residency.**

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

*Child Care Center.* Premises for operation of a child day care, as defined in 40 Texas Administrative Code Section 745.33, as amended, but excluding a child day care operation located at the residence of a child day care permit-holder.

*Child Safety Zone.* Premises where unrelated children commonly gather, including, but not limited to: a child care center; public or private school, neighborhood or linear park, library, playground, public or private youth center, youth athletic facility or field; video arcade, skate park or rink or amusement center; movie theater; bowling alley; public or neighborhood or apartment swimming pool; and offices for Texas Department of Family and Protective Services, and the Children’s Advocacy Center of Collin County.

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

*Linear park.* Public land and associated improvements to be used primarily for passive recreation and connecting residential neighborhoods to one another and to public facilities and services, as defined in Section 16.263 of the City of Plano Code of Ordinances.

*Neighborhood park.* Public land, with associated improvements, typically from seven and one-half (7.5) to ten (10) acres in size, and providing both active and passive recreational opportunities for neighborhood residents, as defined in Section 16.263 of the City of Plano Code of Ordinances.

*Premises.* Includes all improved and unimproved areas on the lot.

*Reportable Conviction or Adjudication.* Offense and disposition as defined in Article 62.001 of the Texas Code of Criminal Procedure, as amended.

*Residence.* Premises where a person resides or intends to reside for more than seven consecutive (7) days.

*Register or Registry.* Texas Public Sex Offender Registry maintained by the Texas Department of Public Safety, pursuant to Chapter 62 of the Texas Code of Criminal Procedure.

- (b) ***Offenses.*** It is unlawful for a person to establish a residence within one thousand (1,000) feet 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.
- (c) ***Measurements.*** The distance between a residence and child safety zone shall be measured by following a straight line from the nearest property line of the premises of the child safety zone to the outer property line of the premises of the residence, or where there are multiple residences on one property, from the nearest property line of the premises of the child safety zone to the nearest property line of the premises of the residence.
- (d) ***Culpable mental state not required.*** Neither allegation nor evidence of a culpable mental state is required for the proof of an offense under this Article.
- (e) ***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.
  - (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.
  - (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.
  - (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.
  - (5) The person required to register has a court order reducing or waiving the one thousand (1,000) feet restriction.”

**Section III.** All provisions of the Code of Ordinances of the City of Plano, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncoded, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section IV.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section V.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this Ordinance.

**Section VI.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED AND APPROVED** this the 27th day of April, 2020.

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Harry LaRosiliere, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY