

ORDINANCE NO. 22-EE

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 30 ½ REGULATION OF SEX OFFENDER RESIDENCY, OF THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF AMENDING SECTION 30½-2 - DEFINITIONS, SECTION 30½-3 SEX OFFENDER RESIDENCY PROHIBITION; SECTION 30½-6 PENALTY; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City Council of the City of Alvin is continually reviewing the provisions of the City Code of Ordinances to ensure that it meets the current needs of the City and reflects current practice;

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

Section 1. That Chapter 30 ½, Regulation of Sex Offender Residency, of the Code of Ordinances, City of Alvin, Texas, is hereby amended with the language as follows:

Chapter 30½ - REGULATION OF SEX OFFENDER RESIDENCY

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Sec. 30½-2. - 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:

City means the City of Alvin, Texas.

Permanent residence means a place where the person abides, lodges, or resides for seven (7) or more consecutive days.

Premises where children commonly gather means:

- (1) All public or semi-public parks, playgrounds, private and public schools, public library, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public or semi-public swimming pools, childcare facility, childcare institution, any recreational field, crisis center or shelter, skate park or rink, public or private youth center, movie theater, bowling alley, scouting facilities and offices for child protective services; and
- (2) Those terms as defined in Article 481.134 of the Texas Health and Safety Code.

Semi-public shall mean any facility restricted for use by residents, members, or registered guests and that is intended to be used for and is operated solely for, including, but not limited to, and in conjunction with:

- (1) Hotels, motels, apartments, condominiums, bed and breakfasts or similar facilities associated with lodgings;
- (2) Camps or manufactured home parks; or
- (3) Membership clubs, churches, or associations.

Nothing in this chapter shall be construed as applying to any pool, constructed at a one- or two-family dwelling, and maintained by an individual for the sole use of the household and house guests.

Temporary residence means a place where the 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 the 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 registered residence.

Sec. 30½-3. - Sex offender residency prohibition; penalty; exceptions.

- (a) If a person is required to register on the department of public safety's sex offender database because of a violation involving a victim who was less than seventeen (17) years of age or for the possession or promotion of child pornography, it is unlawful for that person to establish a permanent residence or temporary residence within one thousand (1,000) feet of any premise where children commonly gather. It shall be prima facie evidence that this chapter applies to such a person if the person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age.
- (b) For the purpose of determining the minimum distance separation, the requirement shall be measured by:
 - (1) 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
 - (2) In the case of multiple residences on one property, measuring from the nearest wall of the building or structure occupied or the parking/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein; or
 - (3) In the case of semi-public, multi-residential properties, the exclusionary zone applies within the boundary of property lines of the subject property.

A map generally depicting the prohibited areas is available on the city website. The City shall review the map at least annually for any changes that may be required.

- (c) Exceptions. Nothing in this chapter shall be interpreted to modify or reduce the state's child safety ban. A person, as described in subsection (a), residing within one thousand (1,000) feet

of those places where children commonly gather does not commit a violation of this chapter 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 chapter.
- (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 one thousand (1,000) 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.
- (5) The person proves that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person.
- (6) The person is under an order of a court of pre-eminent jurisdiction in the State of Texas or of the Texas Department of Criminal Justice Parole Board permitting the person to reside at a location within one thousand (1,000) feet of any premises where children commonly gather.

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Sec. 30½-6. - Penalty.

Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. Each day that a permanent residence or temporary residence is maintained in violation of this section shall constitute a separate violation.

Section 2. Penalties. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not to exceed \$500. Each continuing day's violation shall constitute a separate offence. The City of Alvin retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 3. That except as amended herein all other provisions of Chapter 30 ½ of the Code of Ordinances, City of Alvin, Texas, shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 4. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, 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 5. Incorporation into Code of Ordinances. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Alvin, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 6. Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52 of the Texas Local Government Code and the City of Alvin Charter.

Section 7. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*. Notice was also provided as required by Chapter 52 of the *Texas Local Government Code* and the *City of Alvin Charter*.

PASSED and APPROVED on the 7th day of April 2022.

THE CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary