

ORDINANCE NO. 3809

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MESQUITE BY ADDING A NEW ARTICLE IX AND A NEW SECTION 10-202; THEREBY PROHIBITING CERTAIN SEX OFFENDERS FROM RESIDING WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING THAT A CULPABLE MENTAL STATE IS NOT REQUIRED FOR COMMITTING AN OFFENSE UNDER SECTION 10-202; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Mesquite (City Council) 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 of Mesquite; 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 offenses.

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

SECTION 1. That Chapter 10 of the Code of the City of Mesquite, Texas, is hereby amended by adding a new Article IX and a new Section 10-202 to read as follows, in all other respects said Code and Chapter to remain in full force and effect.

ARTICLE IX. SEX OFFENDER RESIDENCY PROHIBITIONS.

Sec. 10-202. Regulation of sex offender residency.

- (a) *Definitions.* For 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 17 years of age.
 - (2) *Permanent residence.* A place where a person abides, lodges or resides for 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 four 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 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 include:

(i) A public park or public recreation facility;

(ii) A library;

(iii) A public or private school, except trade or business schools, colleges or universities; or

(iv) A structure, other than a single or two-family residence, wherein the following uses are actively conducted and hold a certificate-of-occupancy from the City:

a. A licensed day care center;

b. A studio or facility for instruction in the arts or sports where classes are taught to four or more children at a time; or

c. A church.

(2) *Evidentiary matters; measurements.*

(i) 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 16 years of ages.

(ii) 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.

- (iii) A map depicting the prohibited areas shall be maintained by the City of Mesquite. The City shall review the map at least annually for changes. Said map will be available to the public at the City of Mesquite Police Department.
- (3) *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.
- (4) *Affirmative defenses.* It is an affirmative defense to prosecution that any of the following conditions apply:
 - (i) 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.
 - (ii) The person required to register on the Database was a minor when he committed the offense requiring such registration and was not convicted as an adult.
 - (iii) The person required to register on the Database is a minor.
 - (iv) 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.
 - (v) 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.

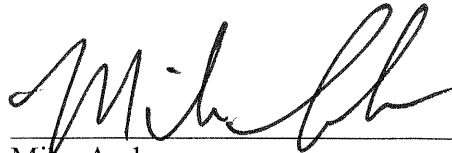
SECTION 2. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 3. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punishable by a fine not to exceed Five Hundred (\$500.00) Dollars for each offense.

SECTION 5. That this ordinance shall take effect immediately from and after its passage.

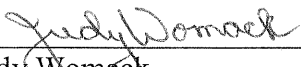
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of July, 2006.

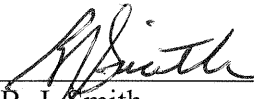


Mike Anderson
Mayor

ATTEST:

APPROVED:



Judy Womack
City Secretary

B. J. Smith
City Attorney