

ORDINANCE NO. _____

AN AMENDMENT TO CHAPTER 3 OF THE CODE OF ORDINANCES, "BUILDING REGULATIONS", AT SECTION 3 "HOUSING CODE" OF THE CITY OF JACINTO CITY, TEXAS, ESTABLISHING NEW CRITERIA FOR THE REGULATION OF SEX OFFENDER RESIDENCY WITHIN THE CITY AND TO SERVE THE CITY'S COMPELLING INTEREST TO PROMOTE, PROTECT AND IMPROVE THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE CITY; AND ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS.

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

That Chapter 3, "Building Regulations" at Section 3 "Jacinto City Texas Housing Code, is hereby amended by adding Subsection "U" entitled "Regulation of Sex Offender Residency":

REGULATION OF SEX OFFENDER RESIDENCY

1. Findings and intent.

Whereas, the City COUNCIL finds that sex offenders that use physical violence and who are convicted of preying on others are sexual predators who present an extreme threat to the health, safety, and welfare of our citizens. Sex offenders are likely to use physical violence, to repeat an offense, have many more victims than ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves, but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.

It is the intent of this article 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 registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.

2. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Child or children means a person or persons younger than 18 years of age.

City means the City of JACINTO CITY, TEXAS.

Permanent residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

Sex offender means a person with a reportable conviction or adjudication who is required to

register with the Texas Department of Public Safety under the provisions of V.T.C.A., Code of Criminal Procedure, Chapter 62.

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 permanent residence.

3. Sex offender residency prohibition, penalty, and exceptions.

(a) If a person is required to register on the Texas Department of Public Safety's sex offender database it is unlawful for that person to establish a permanent or temporary residence within two thousand (2,000) feet of any premise where children commonly gather, including a playground, school, child care facility, video arcade facility, public or private youth center, neighborhood, or public swimming pool, as those terms are defined in Section 481.134 of the Health and Safety Code of the State of Texas. It shall be prima face evidence that this section applies to such a person if the person's record appears on the database.

(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 (1) 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.

(c) Any person violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty, Section 1.106 of this Code.

(d) Nothing in this article shall be interpreted to modify or reduce the state's child safety ban. A person, as described in subsection (a), residing within two thousand (2,000) feet of those places where children commonly gather does not commit a violation of this section if any of the following apply:

(1) The person established the permanent or temporary residence and has complied with all sex offender registration laws of the State of Texas prior to the date of the adoption of this section;

(2) The person proves that the information on the database is incorrect and that, if corrected, this section would not apply to the person.

4. Property owners prohibited from renting real estate property to sex offenders.

(a) It is unlawful to let or rent any place, structure or part thereof, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this article, if such place, structure or part thereof, is located within two thousand (2,000) feet, of any premises where children commonly gather, including a playground, school, child care facility, video arcade facility, public or private

youth center, neighborhood, or public swimming pool, as those terms are defined in Section 481.134 of the Health and Safety Code of the State of Texas. Prior to renting any premises, all persons renting property in the City of JACINTO CITY for permanent or temporary residence are required to first check the resident through the Texas Department of Public Safety website or to call the JACINTO CITY Police Department at (713) 672-2455 to obtain necessary information to assure compliance with this article.

Sec. 7.1105 Penalty.

(a) That it shall be unlawful and a misdemeanor to violate any provision or requirement hereof, and any person, firm or corporation convicted of violating any provision, restriction, requirement, or prohibition of this chapter shall be fined in a sum of not more than five hundred dollars (\$500.00) for each violation. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(b) A culpable mental state is not required for the commission of an offense under this article and need not be proved.

PASSED AND ADOPTED THIS THE ____ DAY OF _____, 2015

ANA DIAZ, Mayor

ATTEST:

JOYCE RAINES, City Secretary

**PASSED AND ADOPTED ON THE SECOND AND FINAL READING HEREOF ON
THE ____ DAY OF _____, 2015.**

ANA DIAZ, Mayor

ATTEST:

JOYCE RAINES, City Secretary

APPROVED:

JIM L. DEFOYD, City Attorney