

ORDINANCE NO. 304-6-13-2023

**AN ORDINANCE AMENDING CITY OF WEST TAWAKONI CODE OF ORDINANCES
ADDING A NEW CHAPTER 13 ESTABLISHING CHILD SAFETY ZONES AND
DISTANCE RESTRICTIONS FOR REGISTERED SEX OFFENDERS; PROVIDING
THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES;
PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL
IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR A PENALTY;
PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of West Tawakoni, Texas, is a Type A general law municipality located in Hunt County, created in accordance with Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council of the City of West Tawakoni finds and declares that sex offenders are a serious threat to public safety; and

WHEREAS, the City Council finds from the evidence that the recidivism rate for released sex offenders is significant, especially for those who commit their crimes against children; and

WHEREAS, the City Council finds from the evidence that restrictions on the proximity of sex offenders to schools or other facilities that might create temptation to repeat offenses are one way to minimize the risk of recidivism; and

WHEREAS, the City Council finds that establishing a policy to restrict the property available for residence of registered sex offenders will provide better protection for children gathering in the City; and

WHEREAS, the 2017 Texas Legislature adopted House Bill 1111, effective September 1, 2017, which adds Section 341.906 to Chapter 341 of the Local Government Code, expressly authorizing the governing body of general-law municipality to restrict registered sex offenders from being within a specified distance of a child safety zone in the municipality; and

WHEREAS, the City Council of the City of West Tawakoni desires to establish the statutory child safety zones and distance restrictions for registered sex offenders in order to protect the health, safety, and welfare of its residents.

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

SECTION 1.

That City of West Tawakoni Code of Ordinances is hereby amended by adding a new Chapter 13 “Child Safety Zones and Distance Restrictions for Registered Sex Offenders” to read as follows:

“CHAPTER 13: CHILD SAFETY ZONES AND DISTANCE RESTRICTIONS FOR REGISTERED SEX OFFENDERS

§13.01 DEFINITIONS.

For the purposes of this Chapter, the following terms, words, and the derivations thereof shall have the meanings given herein.

CHILD SAFETY ZONE. A premise where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility that regularly holds events primarily for children. The term does not include a church, as defined by Section 544.251, Insurance Code.

PLAYGROUND, PREMISE, SCHOOL, VIDEO ARCADE FACILITY, AND YOUTH CCENTER. Have the meanings assigned by Section 481.134, Health and Safety Code.

REGISTRED SEX OFFENDER. An individual who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

§13.02 OFFENSE.

It is unlawful for a registered sex offender to go in, on, or within One Thousand (1,000) feet of a child safety zone in the City of West Tawakoni.

§13.03 MEASUREMENTS; MAP.

- (A) For the purposes of measuring the distance restriction of this Chapter, the requirement shall be measured by following a straight line from the outer property line of the child safety zone property.
- (B) A map depicting the child safety zones in the City shall be created by the City and maintained by the City of West Tawakoni Police Department. The city shall review the map annually for changes. Said map shall be available to the public at the City of West Tawakoni Police Department.

§13.04 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.

§13.05 AFFIRMATIVE DEFENSE.

It is affirmative defense to prosecution of an offense under this Chapter that the registered sex offender was in, on, or within One Thousand (1,000) feet of a child safety zone for a legitimate purpose, including transportation of a child that the registered offender is legally permitted to be with, transportation to and from work, and other work-related purposes.

§13.06 EXEMPTIONS.

(A) A registered sex offender who established residency in the residence located within One Thousand (1,000) feet of a child safety zone before July 31, 2023, is exempt from the application of this Chapter; however, the exemption only applies.

a. To areas necessary for the registered sex offender to have access to and live in the residence; and

b. To the period the registered sex offender maintains residency in such residence.

(B) A registered sex offender may seek an exemption from the application of this Chapter by submitting a request in writing to the Police Chief specifying the background, reason, and scope of the requested exemption. The Police Chief may seek additional information from the requestor, and shall issue a written determination on the requested exemption within ten (10) business days from the filing of the request. The requestor may appeal to the City Council from the determination of the Police Chief by filing such appeal request in writing to the City Secretary within ten (10) business days of the Police Chief's determination.

SECTION 2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars (\$500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and the Code of the City of West Tawakoni as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4.

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 section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City Official or employee charged with the enforcement of this Ordinance, acting for the City of West Tawakoni in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that

might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

SECTION 6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of West Tawakoni in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of West Tawakoni.

SECTION 7.

The City Secretary is authorized and directed to cause publication of the descriptive caption and penalty clauses of this ordinance as provided by law.

SECTION 8.

This ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS FIRST READING: ____ DAY OF _____, 2023

PASSED AND APPROVED THIS SECOND READING: ____ DAY OF _____, 2023

Jim Turnipseed – Mayor

Kim Cowley – City Secretary