JK
12/05/13
Item # 25
Corrected

AN ORDINANCE 2013-12-05-0855

AMENDING CHAPTER 22, OF THE CITY CODE TO CREATE A NEW ARTICLE XI ENTITLED "PARK SAFETY ZONES" TO PROHIBIT REGISTERED SEX OFFENDERS FROM HAVING A PERMANENT OR TEMPORARY RESIDENCE WITHIN ONE THOUSAND FEET OF A CITY PARK, PROHIBITING THEIR ENTRY IN CITY PARKS, AND PROHIBITING LOITERING WITHIN THREE HUNDRED FEET OF CITY PARKS; AND ADOPTING PENALTIES FOR VIOLATIONS.

* * * * *

WHEREAS, the City Council of the City of San Antonio, Bexar County, Texas, has determined that the City of San Antonio, as part of its essential functions as a home rule city, has an interest in promoting and protecting the safety and welfare of its citizens and those people who visit the City; and

WHEREAS, the City Council has determined that there is a high likelihood of recidivism by sex offenders who have been convicted or adjudicated of sex crimes if the same are allowed in the proximity of places where others congregate, either singly or jointly; and

WHEREAS, the City Council has determined that citizens of San Antonio and those people who visit the City congregate in City parks on a regular basis; and

WHEREAS, the City Council has determined that there is a serious concern for the safety and welfare of people in City parks so long as sex offenders are permitted to reside in the vicinity of city parks, enter them, or loiter near the same; and

WHEREAS, the City Council has determined that in order to protect the health, safety and general welfare of the citizens of San Antonio and those people who visit the City, it is necessary to create and maintain a Park Safety Zone which would encompass all so designated city parks, **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Code of San Antonio, Texas, Chapter 22, is hereby amended by adding a new Article XI entitled "City Parks as Park Safety Zones" to read as follows:

ARTICLE XI. CITY PARKS AS PARK SAFETY ZONES.

Sec. 22-162 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:

Park safety zone in the context of this ordinance means all city parks, with the exception of cemeteries and golf courses.

City means the city of San Antonio, Texas.

City parks means any land, including improvements to the land, which is administered, operated or managed by the City for the use of the general public as a park, trail or natural area, and City recreational areas which include, but are not limited to: conservation areas, jogging trails, hiking trails, bicycle trails, stretches of river designated for canoeing or kayaking, recreational centers, water parks, swimming pools, soccer fields and baseball fields. A map depicting the city parks shall be kept and maintained by the San Antonio Police Department.

Loiter means standing or sitting idly, whether in a vehicle or not, in and around an area.

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

Sex offender means an individual who is required to register as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure, or by a state or federal agency. *Sex offender* shall also refer to civilly committed sexually violent predators, as referenced under Chapter 841 of the Texas Health and Safety Code.

Temporary residence means a place where a person abides, lodges or resides for a period of 14 or more total days during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

Sec. 22-163. Sex offender residence restrictions.

(1) It is an offense for a sex offender to establish a permanent or temporary residence within 1,000 feet of the real property comprising a park safety zone.

(2) The residence restriction of this section does not apply to the section of the Riverwalk, on the street level only, which is South of Lexington Avenue and North of South Alamo Street.

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

Sec. 22-164. Sex offender entry and loitering restrictions

(1) It is an offense for a sex offender to intentionally or knowingly enter a park safety zone.

(2) It is an offense for a sex offender to intentionally or knowingly loiter within 300 feet of a park safety zone.

(3) The entry and loitering restrictions of this section do not apply to the section of the Riverwalk, on the street level only, which is South of Lexington Avenue and North of South Alamo Street.

(4) A sex offender who has a right to be present at an official meeting is exempted from this section and may approach and enter a park safety zone for such time as is necessary to attend the official meeting. This exemption shall only apply to those areas of the park safety zone that are necessary for attendance at the official meeting, and any sex offender found outside such areas shall be in violation of this ordinance.

(5) When a polling place for an election is located within a park safety zone, a sex offender is exempted from this section and may approach and enter the park safety zone for the limited purpose of voting if the sex offender qualifies to vote at such place. This exemption shall only apply to those areas of the park safety zone that are necessary for voting, and any sex offender found outside such areas shall be in violation of this ordinance.

Sec. 22-165. Distance Measurement

Distances under this ordinance shall be measured between the sex offender's residence, temporary residence or location and the nearest property line of the park safety zone.

Sec. 22-166. Affirmative defenses.

(1) It is an affirmative defense to prosecution for sex offender residence restrictions that the sex offender had already established a temporary or permanent residence within the park safety zone prior to the date of this ordinance's adoption, and has complied with all of the sex offender registration laws of the State of Texas.

(2) It is an affirmative defense to prosecution under this ordinance that the sex offender was a minor when the offense was committed, and does not qualify as a sex offender under this ordinance as an adult.

(3) It is an affirmative defense to prosecution under this ordinance that the sex offender is under an order of a court in the State of Texas or of the Texas Department of Criminal Justice Parole Board, permitting the person to be within the park safety zone.

(4) Affirmative defenses have the same effect as specified in Sec. 2.04 of the Texas Penal Code.

Sec. 22-167. Exemptions.

Exemptions from the terms of this chapter shall not be contrary to the public interest but may be granted where, owing to special conditions, or when a literal enforcement of the provisions of this chapter will result in unnecessary hardship. A sex offender shall have the right to make an appeal for an exemption from a provision of this chapter by making a request to the

JK
12/05/13
Item # 25
Corrected

Chief of the San Antonio Police Department, in writing, stating why an exemption should be granted. The decision of the Chief of Police, which may be made based solely on the written appeal without further hearing, shall be final.

Sec. 22-168. Penalties.

Any person who violates any of the provisions of this article shall be guilty of a Class C misdemeanor and upon adjudication or conviction thereof shall be fined in an amount not to exceed $500.00 for each and every offense. Each and every violation or day such violation shall continue or exist shall be deemed a separate offense. The penal provisions imposed under this Section shall not preclude the City from filing suit to enjoin a violation of this section. The City shall retain all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 2. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this ordinance, or any appendix thereof, for any reason, be held illegal or inoperative, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional, invalid or ineffective, the remainder shall stand effective and valid as if it had been enacted and ordained without the portion held to be illegal, inoperative, unconstitutional, invalid or ineffective.

SECTION 3. No other provision of the City Code is amended hereby. All other provisions shall remain in effect.

SECTION 4. The City Clerk is directed to promptly publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

SECTION 5. The publishers of the City Code of San Antonio, Texas are authorized to amend the code to reflect the changes adopted in this ordinance, and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 6. This ordinance shall take effect on the 1st day of March, 2014.

PASSED AND APPROVED this 5th day of December, 2013.

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Michael Bernard, City Attorney

Agenda Item:	**25**
Date:	12/05/2013
Time:	10:16:42 AM
Vote Type:	Motion to Appr w Cond
Description:	An Ordinance amending Chapter 22, creating Article XI of the City Code of San Antonio by prohibiting registered sex offenders from entering a City park, establishing residence within 1,000 feet of a City park, or loitering within 300 ft of a City park. [Erik J. Walsh, Deputy City Manager; William McManus, Police Chief]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Carlton Soules	District 10		x			x	