ORDINANCE NO. 536

AN ORDINANCE FOR THE CITY OF WEST COLUMBIA, TEXAS, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, BY ADDING ARTICLE IIII ENTITLED RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS, PROHIBITING SEXUAL OFFENDERS FROM RESIDING WITHIN CHILD SAFETY ZONES AS DEFINED AND PROHIBITING PROPERTY OWNERS FROM RENTING OR LEASING REAL PROPERTY TO SEXUAL OFFENDERS; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES, REGULATIONS, RULES OR POLICIES WHICH ARE IN ANY MANNER INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING THAT VIOLATION OF THE ORDINANCE SHALL CONSTITUTE A VIOLATION OF THE LAW PUNISHABLE BY A FINE NOT TO EXCEED $2,000.00.

WHEREAS, the Mayor and City Council of the City of West Columbia, Texas, are deeply concerned about the numerous and recent occurrences in the State of Texas and elsewhere, whereby convicted sex offenders who have been released from custody repeat the unlawful acts for which they had originally been convicted; and

WHEREAS, the Mayor and City Council of the City of West Columbia, Texas, find from the evidence that the recidivism rate for released sex offenders is alarmingly high, especially for those whose crimes involve children; and

WHEREAS, the City West Columbia, Texas is becoming an increasingly attractive place for younger families with small children; and

WHEREAS, the Mayor and City Council of the City of West Columbia, Texas, desire to establish a policy which provides maximum protection of the lives and persons of the City of West Columbia; and

WHEREAS, Article 42.12(13B) of the Texas Code of Criminal Procedure provides a 1000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses; and

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code provide the City authority to adopt ordinances for the government, interest, welfare and good order of the municipality.

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

Section One

Chapter 12 entitled "Miscellaneous Offenses" of the Code of Ordinances of the City West Columbia, Texas, shall be and is hereby amended by the addition of Article III entitled "Residential Restrictions on Sexual Offenders", to-wit:

ARTICLE III. RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS

Sec. 12-50. Findings and Intent

_____The City Council hereby makes the findings and declarations of intent in support of this Article:

A. That repeat sexual offenders, sexual offenders that use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. As a result, the cost of sexual offender victimization to society at large, while incalculable, is clearly exorbitant.

B. It is the intent of this ordinance 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 child safety zones within which certain sexual offenders are prohibited from residing.

Sec. 12-51 Definitions

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

(1) **CHILD SAFETY ZONE** — means any location within 1000 feet of those places where children commonly gather, including, but not limited to, a school, day-care facility, playground, public or private

youth center, public swimming pool, or video arcade facility, as those terms are defined in Article 481.134 of the Texas Health and Safety Code.

(2) **RESIDE** — means to maintain a residence.

(3) **RESIDENCE** — means and includes any place where a person abides, lodges or resides, whether permanent or temporary, and is defined to include any place where a person can generally be found between the hours of 10:00 p.m. and 6:00 a.m. or otherwise sleeps as follows:

(a) for 14 or more consecutive days;

(b) for 14 or more days in the aggregate during any calendar year; and

(c) for a period of 4 or more days, whether consecutive or not, within any calendar month.

(4) **SEXUAL OFFENDER** — means any person who has plead guilty or no contest to, been convicted of, or been placed on probation for (including, but not limited to, deferred adjudication and/or deferred disposition probation) the violation of any statute which prohibits any type of sexual activity or conduct the victim of which is a minor including, but not limited to, Articles 21.08, 21.11, 22.011, 22.021, 25.02, 43.25 and 43.26 of the Texas Penal Code.

Sec. 12-52. Sexual Offenders Residence Prohibition

A. It is unlawful for any sexual offender to reside in a child safety zone.

B. It is unlawful to knowingly lease, rent, or otherwise permit the occupancy of any residence, apartment, manufactured home, trailer, or other structure or a part thereof or any lot or other place for the placement of such a structure ("Residence and/or Residential Location") to a sexual offender for use as a residence if such Residence or Residential Location is within a child safety zone.

C. For the purpose of determining whether a Residence or Residential Location is within a child safety zone, the distance between the two locations shall be measured in a straight line from that point of the property line of the Residence or Residential Location nearest the child safety zone to the nearest point in the property line of the child safety zone.

Sec. 12-53. Exceptions

A person residing within 1000 feet of a child safety zone does not commit a violation of this ordinance if any of the following apply:

1. The person established the residence and has complied with, and is in compliance with, as of the effective date of this ordinance, and continues to comply with all applicable sex offender registration laws and all applicable terms of community supervision, whether as a probationer, parolee, or otherwise.

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 use which brings property within the definition of a child safety zone, which child safety zone is within 1000 feet of the person's residence, was established after the person established the residence, and the person has complied with, and is in compliance with, as of the effective date of this ordinance, and continues to comply with all applicable sex offender registration laws and all applicable terms of community supervision, whether as a probationer, parolee, or otherwise.

Sec. 12-54. Penalties

Any violation of this article shall constitute a Class C Misdemeanor and shall be punishable by a fine not to exceed Two Thousand and 00/100 Dollars ($2,000.00), with each day that the violation exists to constitute a separate offense.

Section Two

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase, or other portion of this ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provision of this ordinance which are not specifically designated as being illegal, invalid or unenforceable.

Section Three

Any rules, ordinances, police regulations, resolutions, and/or policies of the City of West Columbia, whether written, or otherwise, which are in any manner in conflict with or inconsistent with this ordinance, shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

Section Four

This ordinance shall be effective and applicable immediately from and after the date of its passage and approval by the City Council of the City of West Columbia, and the publication of its caption as provided by law.

PASSED AND APPROVED this the 8th day of May, **2006**.

David E. Foster
DAVID FOSTER, Mayor

ATTEST:

Deborah A. Sutherland
DEBORAH SUTHERLAND
City Secretary