ORDINANCE NO. 12-415

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BUNKER HILL VILLAGE, TEXAS, BY ADDING A NEW ARTICLE VII TO CHAPTER 10 THEREOF, PROVIDING REGULATIONS FOR SEX OFFENDER RESIDENCY AND MAKING IT UNLAWFUL FOR CERTAIN SEX OFFENDERS TO RESIDE WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING EXCEPTIONS; PROVIDING FOR OTHER MATTERS RELATED TO THE SUBJECT; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED $500 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bunker Hill Village determines and declares that sex offenders who have committed sexual offenses against children are a serious threat to public health, safety, and welfare of the citizens of the community; and

WHEREAS, the City Council further finds that such sex offenders require special supervision in order to protect and preserve the health, safety, and welfare of the citizens of the community; 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; 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 sexual offenses; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUNKER HILL VILLAGE, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Bunker Hill Village, Texas is amended by adding a new Article VII to Chapter 10, Offenses and Miscellaneous Provisions, thereof to provide as follows:

"Article VII. Regulation of Sex Offender Residency

Section 10-115. Definitions.

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

1) *Child Safety Zone.* Public parks, private and public schools, public libraries, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public or commercial and semi-private swimming pools, child care facilities, child care institutions, public or private youth soccer or baseball fields, crisis centers or shelters, public or private youth centers, scouting facilities and Offices for Child Protective Services.

2) *Database.* The Texas Department of Public Safety's Sex Offender Database or the Sex Offender Registration files maintained by the Sex Offender Registration Officer of the Memorial Villages Police Department.

3) *Loiter.* Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around an area.

4) *Minor.* A person younger than seventeen (17) years of age.

5) *Park or Playground.* Any land, including improvements to the land used as a general public as a recreational area. Recreational areas include, but are not limited to, conservation areas, jogging trails, hiking trails, bicycle trails, recreational centers, water parks, swimming pools, soccer fields or baseball fields.

6) *Permanent Residence.* A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

7) *Public Way.* Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, shopping centers, parking lots, transportation facilities, restaurants, shops and similar areas that are open to the use of the public.

8) *School.* A private or public pre-school, private or public elementary school or private or public secondary school.

9) *Sex Offender.* An individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a person under

seventeen (17) years of age for which the individual is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure.

10) *Temporary Residence.* A place where a 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 a person routinely abides, resides, or lodges for a period of four (4) or more consecutive or non consecutive days in any month and which is not the person's permanent residence.

Section 10-116. 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 seventeen (17) years of age, it is unlawful for that person to establish a permanent residence or a temporary residence within 1,000 feet of any premise where children commonly gather, which, for purposes of this ordinance, shall be a Park or Playground; School; other such facility or location described in a Child Safety Zone; or other places where children regularly congregate; as such terms are defined in this Article.

2) A Sex Offender, shall not, on each October 30th and 31st (or any other date set by the City for trick-or-treaters) between the hours of 4:00 p.m. and 11:00 p.m., leave an exterior porch light on or otherwise invite trick-or-treaters to solicit the sex offender's Permanent or Temporary Residence.

3) It is an offense for a Sex Offender to knowingly enter a *Child Safety Zone*.

4) It is an offense for a Sex Offender to knowingly loiter on a public way within 300 feet of a Child Safety Zone.

Section 10-117. Evidentiary matters; measurements.

1) If a Sex Offender is found in a Child Safety Zone by a Police Officer, the Sex Offender is subject to punishment in accordance with this Ordinance.

2) It shall be prima facie evidence that this Article applies to a person if that person's record appears in/on the Database and such Database indicates that the victim was less than seventeen (17) years of age.

3) The distance of three hundred (300) feet from a child safety zone shall be measured on a straight line from the closest boundary of the Child Safety Zone.

4) The distance of one thousand (1,000) feet from a place where children congregate shall be measured on a straight line from the closest boundary line of the Sex Offender's residence to the closest boundary line of the Park or Playground; School; other such facility or location described in a Child Safety Zone; or other places where children regularly congregate.

5) In the case of multiple residences on one property, measuring from the nearest property line of the residences to the nearest property line of the Park or Playground; School; other such facility or location described in a Child Safety Zone; or other places where children regularly congregate.

6) In cases of a dispute over measured distances, it shall be incumbent upon the person(s) challenging the measurement to prove otherwise.

7) A map depicting the prohibited areas shall be created by the City of Bunker Hill Village and maintained by the Memorial Villages Police Department. The City of Bunker Hill Village shall review the map annually for changes. Said map will be available to the public at the Memorial Villages Police Department or available on the City of Bunker Hill Village website.

Section 10-118. Exceptions.

1) The person required to register in/on the Database established the permanent residence or temporary residence prior to the date of the adoption of this Article, and residency has been consistently maintained and the person has complied with all of the Sex Offender Registration laws of the State of Texas;

2) The Park or Playground; School; other such facility or location described in a Child Safety Zone; or other places where children regularly congregate, as specified herein, within one thousand (1,000) feet of the permanent or temporary residence of the person required to register in/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;

3) The information in/on the Database is incorrect, and, if corrected, this Article would not apply to the person who was erroneously listed in/on the Database;

4) The person required to register in/on the Database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult;

5) The person required to register in/on the Database is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution located within one thousand (1,000) feet of real property comprising a Park or Playground; School; other such facility or location described in a Child Safety Zone; or other places where children regularly congregate;

6) The person required to register in/on the Database is under eighteen (18) years of age or a ward under a guardianship, who resides with a parent or guardian;

7) The person required to register in/on the Database has been exempted by a court order from registration as a Sex Offender under Chapter 62, Texas Code of Criminal Procedure;

8) The person required to register in/on the Database has had the offense for which the sex offender registration was required, reversed on appeal or pardoned; or

9) The person's duty to register in/on the Database has expired.

10) Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender."

Section 3. **Penalty**. Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $500.00. Each day of violation shall constitute a separate offense.

Section 4. **Repeal**. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. **Severability**. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part

or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Bunker Hill Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts. To the extent this Ordinance is in conflict with state law, the state law is controlling.

Section 6. **Effective Date**. This Ordinance shall be in full force and effect immediately upon and after its final passage and publication as required by law.

PASSED, APPROVED, AND ADOPTED this 15th day of May, 2012.

Derry Essary
Mayor

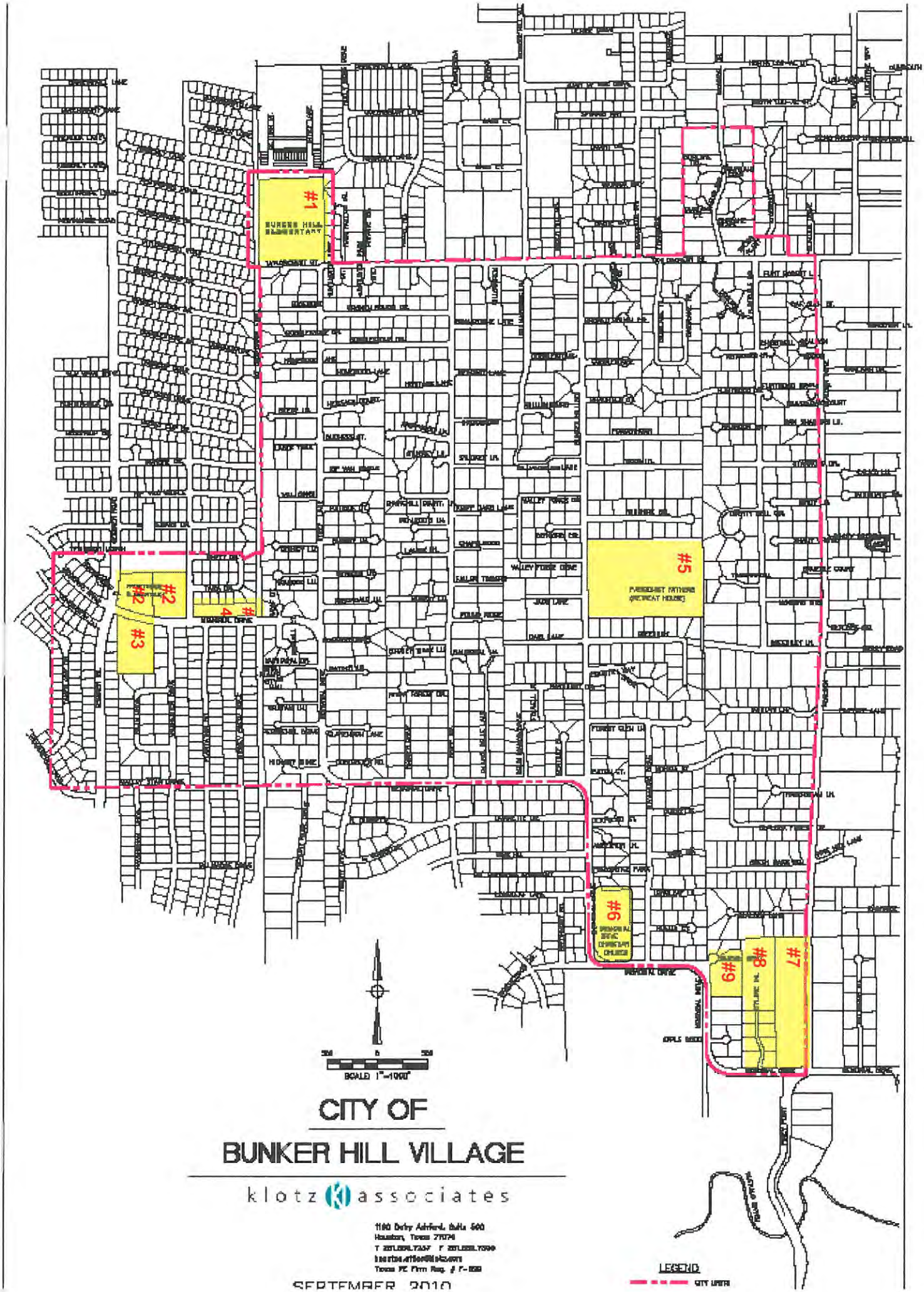
ATTEST:

Kelly Johnson
City Secretary

CHILD SAFETY ZONE LOCATIONS IN BUNKER HILL VILLAGE
ORDINANCE 12-415

Child Safety Zone. Public parks, private and public schools, public libraries, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public or commercial and semi-private swimming pools, child care facilities, child care institutions, public or private youth soccer or baseball fields, crisis centers or shelters, public or private youth centers, scouting facilities and Offices for Child Protective Services.

1.	Bunker Hill Elementary	11950 Taylorcrest
2.	Frostwood Elementary	12214 Memorial Drive
3.	Memorial Drive Lutheran Chruch	12211 Memorial Drive
4.	Memorial Forest Club	12122 Memorial Drive
5.	Holy Name Retreat Center	430 Bunker Hill Road
6.	Memorial Drive Christian Church	11750 Memorial Drive
7.	Memorial Drive Presbyterian Church	11627 Memorial Drive
8.	Memorial Drive Presbyterian Church	11612 Memorial Drive
9.	Memorial Drive Presbyterian Church	245 Blalock Road



CITY OF

BUNKER HILL VILLAGE

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SEPTEMBER 2010