ORDINANCE NO. 17-484

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BUNKER HILL VILLAGE, TEXAS BY REPEALING IN ITS ENTIRETY ARTICLE VII, REGULATION OF SEX OFFENDER RESIDENCY, OF CHAPTER 10, OFFENSES AND MISCELLANEOUS PROVISIONS; ADDING A NEW ARTICLE VII, LIMITATION ON REGISTERED SEX OFFENDERS, TO CHAPTER 10, OFFENSES AND MISCELLANEOUS PROVISIONS, TO ESTABLISH DEFINITIONS, TO RESTRICT A REGISTERED SEX OFFENDER FROM GOING WITHIN 1,000 FEET OF ANY CHILD SAFETY ZONE, TO PROVIDE FOR AFFIRMATIVE DEFENSES AND EXCEPTIONS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED $2,000.00 FOR ANY VIOLATION OF THIS ORDINANCE WITH EACH DAY CONSTITUTING A SEPARATE OFFENSE; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, in its 85th Legislative Session, the Texas Legislature adopted House Bill 1111, now codified as Section 341.906 of the Texas Local Government Code, authorizing general-law municipalities to adopt regulations limiting registered sex offenders within the corporate boundaries of the municipality; and

WHEREAS, the City Council of the City of Bunker Hill Village, Texas finds it to be in the best interest of the health, safety and welfare of the residents to adopt regulations limiting registered sex offenders within the City's boundaries as set forth in this ordinance; now, therefore

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

Section 1. The facts and matters contained 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 hereby amended by deleting in its entirety Article VII, Regulation of Sex Offender Residency, of

Chapter 10, Offenses and Miscellaneous Provisions and adding a new Article VII, Limitation on Registered Sex Offenders, to Chapter 10, Offenses and Miscellaneous Provisions, the new Article VII to read as follows:

"**Article VII. – Limitation on Registered Sex Offenders.**

Section 10-115. – Definitinos.

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

(1) *Child Safety Zone* shall mean premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children. The term does not include a church, as defined by Section 544.251 of the Texas Insurance Code.

(2) *Playground*, *Premises*, *School*, *Video Arcade Facility*, and *Youth Center* shall have the meanings assigned by Section 481.134 of the Texas Health and Safety Code.

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

(4) *Registered Sex Offender* shall mean an individual who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

Section 10-116. – Offenses.

(1) It shall be unlawful for a registered sex offender to establish a residence or to go in, on, or within 1,000 feet of a child safety zone.

(2) It shall be unlawful for a registered sex offender on each October 30th or 31st (or any other date set by the City for trick-or-treaters) between the hours 4:00 p.m. and 11:00 p.m. to leave an exterior porch light on or otherwise invite trick-or-treaters to solicit the registered sex offender's permanent residence.

Section 10-117. – Evidentiary Matters; Measurements.

(1) The distance of one thousand (1,000) feet from a child safety zone shall be measured on a straight line from the closest boundary line of the child safety

zone to the location of the registered sex offender or the closest boundary line of a registered sex offender's permanent residence.

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

Section 10-118. – Affirmative Defenses; Exceptions; Exemptions

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

(2) The regulations contained in this Article do not apply to a registered sex offender who established a permanent residence located within 1,000 feet of a child safety zone prior to the adoption of this Article. The exception established by this subsection applies only to:

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

b. the period of time that the registered sex offender maintains residency in the permanent residence.

(3) Any registered sex offender may apply for an exemption from one or more of the provisions of this Article by making application to the City Council for such exemption. The requested exemption must be submitted in writing to the City Secretary stating clearly the reasons why the registered sex offender is seeking the exemption. The requested exemption will be placed on the agenda for the next available regular City Council meeting for consideration.

Section 3. Any person, corporation, or entity 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 $2,000.00. Each day in which any violation occurs, or each occurrence of any violation, shall constitute a separate offense.

Section 4. 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 is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision 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.

PASSED, APPROVED, AND ADOPTED on this 17 day of October, 2017.

Jay Williams, Mayor

ATTEST:

Britique Williams, City Secretary