

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, CREATING ARTICLE X, "PROTECTION OF CHILDREN EXPOSED TO UNJUSTIFIED VIOLENCE", OF CHAPTER 54, "MISCELLANEOUS OFFENSES"; PROVIDING A PENALTY FOR VIOLATION HEREOF; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the exposure of society's children to violence is a pervasive problem that plagues society at every level; and

WHEREAS, a study by the U.S. Department of Justice found that sixty percent of American children were exposed to violence, crime, or abuse in their homes, schools, and communities; and

WHEREAS, witnessing violence puts children at a greater risk of taking their own life; it being estimated that children who grow up in homes with domestic and family violence are six times more likely to commit suicide; and

WHEREAS, children exposed to violence, whether as victims or witnesses, have a high risk of experiencing learning difficulties, speech and language impairments, and school failure; and

WHEREAS, exposure to violence is a strong predictor of violent delinquent behavior among adolescents, and it is estimated that children who grow up in homes with domestic and family violence are seventy-four percent more likely to commit a violent crime against someone else; and

WHEREAS, children exposed to violence may be more aggressive and are more likely to use violence to resolve situations; studies have demonstrated that children of domestic violence are three times more likely to repeat the cycle in adulthood, and that growing up with domestic violence is the most significant predictor of whether or not someone will be engaged in domestic violence later in life; and

WHEREAS, the City Council hereby finds and determines that the regulations set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

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

SECTION 1.

ADOPTION

That Article X, "Protection of Children Exposed to Unjustified Violence", of Chapter 54 of the Code of Ordinances of the City of Burleson is hereby adopted to read as follows:

ARTICLE X. PROTECTION OF CHILDREN EXPOSED TO UNJUSTIFIED VIOLENCE

Section 54-170. GENERAL PURPOSE OF ORDINANCE.

It is the purpose of this Ordinance to protect children whose health, safety, and welfare may be jeopardized through exposure to unjustified violence.

Section 54-171. DEFINITIONS.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Allow. Allow means to permit, enable, grant, or approve.
- (2) Child. Child means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.
- (3) Child Relation. Child Relation means a lineal descendant by blood or adoption, or a foster child, or a minor ward, of either the person described in Section 54-172(a) or their spouse, or the victim against whom the act of unjustified violence is commissioned or their spouse.
- (4) Household. Household means a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other. Member of a household includes a person who previously lived in a household.
- (5) Intentionally. Intentionally means "Intentionally" as defined in Texas Penal Code § 6.03(a).
- (6) Knowingly. Knowingly means "Knowingly" as defined in Texas Penal Code § 6.03(b).
- (7) Recklessly. Recklessly means "Recklessly" as defined in Texas Penal Code § 6.03(c).
- (8) Unjustified Violence. "Unjustified Violence" means an act that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places an individual in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.

(9) Witness. Witness means in the presence such that the act may be seen or heard.

Section 54-172. VIOLATION AND DEFENSES.

- (a) It shall be unlawful for a person to intentionally, knowingly, or recklessly allow a child relation or a child of the person's household to witness the commission of unjustified violence against another.
- (b) It is a defense to prosecution that the conduct of any alleged violation of this Section is justified under Chapter 9 of the Texas Penal Code.

Section 54-173. PENALTIES.

- (a) Any person convicted of violating the provisions of Section 54-172(a) shall be guilty of a Class C misdemeanor and shall be punished by a fine not to exceed \$500.
- (b) This Section does not serve to limit any other remedies available to the jurisdiction in law or equity.
- (c) Each violation shall constitute a separate offense.

Sections 54-174 – 54-179. - RESERVED.

SECTION 2.
FINDINGS OF FACT

The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

SECTION 3.
CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas, as amended, except where 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.
SEVERABILITY CLAUSE

It is hereby declared to be the intention of the city council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable and if any phrase, clause, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in its ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.
SAVINGS CLAUSE**

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of the Burleson City Code or any other ordinances regulating the provision of emergency ambulance services that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6.
PUBLICATION CLAUSE**

The City Secretary of the City of Burleson is hereby directed to give notice of the passage of this ordinance by causing the caption or title and penalty clause of this ordinance to be published as required by Section 36 of the Charter of the City of Burleson.

**SECTION 7.
EFFECTIVE DATE**

This Ordinance shall be in full force and effect after its publication as provided by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED THIS _____ DAY OF _____, 2017.

MAYOR

ATTEST:

CITY SECRETARY