

ORDINANCE NO. 501

AN ORDINANCE TO ADOPT SEXUAL PREDATOR RESIDENCY RESTRICTIONS; TO PROHIBIT CERTAIN PERSONS SUBJECT TO THE SEX OFFENDER REGISTRATION ACT AND DEFINED AS SEXUAL PREDATORS FROM RESIDING IN CERTAIN AREAS WITHIN THE CITY/VILLAGE; TO ESTABLISH PENALTIES FOR A VIOLATION; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHAPPELL, NEBRASKA:

That the Codified Ordinances of the City of CHAPPELL, Nebraska, be amended with the addition of the following new sections:

Section 1.

Purpose.

- A. That the Nebraska Legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled cities to restrict such person's place of residence as provided in the Sexual Predator Residency Restriction Act.
- B. Persons at a high risk to repeat sexual offenses pose a great threat to children and public safety generally. The physical and emotional cost of sex offender victimization to society at large is incalculably high.
- C. 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, particularly the children, by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

Section 2.

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

- A. **Child care facility** means a place with a license issued under the Nebraska Child Care Licensing Act, sections 71-1908 to 71-1923, as currently existing or hereafter amended. It shall include licensed places both inside and outside the corporate limits of the City.
- B. **Sex Offender** means an individual who has been convicted of a crime listed in Neb. Rev. Stat. Section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act or any person convicted under the law of another state if, at the time of the conviction under the law of such other

state, the offense for which the person was convicted would have required registration under the Nebraska Sex Offender Registration Act, if the conviction occurred in Nebraska.

- C. **Sexual Predator** shall mean an individual who is required to register under the State of Nebraska's Sex Offender Registration Act, who is classified as Level 3 as determined by the Nebraska State Patrol under Neb. Rev. Stat. Section 29-4013, which is the classification of those registrants with a high risk of recidivism and who has victimized a person who was eighteen years of age or younger in the past.
- D. **Residence** means a place where the person regularly sleeps, where the person has established his or her home, where he or she is habitually present or to which when he or she departs he or she intends to or does regularly return. A residence may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, receipt of mail at the premises or identification of the premises as a residence on a driver's license, vehicle registration or other document, such as utility or other service billings.
- E. **School** shall mean a public, private, denominational or parochial school which meets the requirements for accreditation or approval prescribed by the State of Nebraska, pursuant to Nebraska Revised Statute Chapter 79, and which has or includes any or all grades kindergarten through 12th grade.

Section 3.

Sex Offender Residence Prohibitions; Exceptions and Penalties.

- A. **Prohibited location of residence of sexual predator.** It shall be unlawful for any sexual predator, as defined in the previous Section, to reside within five hundred (500) feet of a school or child care facility.
- B. **Measurement of distance.** For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer boundary line of a school or child care facility.
- C. **Exceptions.** A sexual predator residing within five hundred (500) feet of a school or child care facility does not commit a violation of this Ordinance if he or she:
 - (1) Resides within a prison or a correctional or treatment facility operated by the state or a political subdivision.
 - (2) Established his or her residence location prior to July 1, 2006 and has not moved from that residence.

- (3) Established his or her residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.
- (4) The person is a minor residing with a parent.
- (5) The person's place of residence becomes a violation of this Ordinance solely because of annexation into the City.
- (6) This section does not preclude a sexual predator deemed to be handicapped or disabled under the Fair Housing Act, Rehabilitation Act or Americans with Disabilities Act from pursuing requests for reasonable accommodations.

Section 4.

Severability.

If any provision of this Ordinance or its application to any person or circumstances shall be held invalid, the remainder of the Ordinance, or the application of the provisions to other persons or circumstances shall not be affected.

Section 5.

This Ordinance shall be in full force and take effect from and after its passage, approval and publication as required by law.

Penalty, see § 10.99

Statutory reference:

Political subdivision restrictions on sex offender residency; requirements, see Neb. Rev. Stat § 29-4017

Passed and approved this 17th day of March, 2008.

Larry Rahe, Mayor

ATTEST:

Joan Hansen
City Administrator/Clerk

29-4015. Act, how cited.

Sections 29-4015 to 29-4017 shall be known and may be cited as the Sexual Predator Residency Restriction Act.

Source: Laws 2006, LB 1199, § 27.

29-4016. Terms, defined.

For purposes of the Sexual Predator Residency Restriction Act:

(1) Child care facility means a facility licensed pursuant to the Child Care Licensing Act;

(2) Political subdivision means a village, a city, a county, a school district, a public power district, or any other unit of local government;

(3) School means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Chapter 79;

(4) Sex offender means an individual who has been convicted of a crime listed in section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

(5) Sexual predator means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in section 29-4001.01, and who has victimized a person eighteen years of age or younger.

Source: Laws 2006, LB 1199, § 28; Laws 2009, LB285, § 12.

Cross References

Child Care Licensing Act, see section 71-1908.

Sex Offender Registration Act, see section 29-4001.

29-4017. Political subdivision restrictions on sex offender residency; requirements.

(1) A political subdivision may enact an ordinance, resolution, or other legal restriction prescribing where sex offenders may reside only if the restrictions are limited to sexual predators, extend no more than five hundred feet from a school or child care facility, and meet the requirements of subsection (2) of this section.

(2) An ordinance, resolution, or other legal restriction enacted by a political subdivision shall not apply to a sexual predator who:

(a) Resides within a prison or a correctional or treatment facility operated by the state or a political subdivision;

(b) Established a residence before July 1, 2006, and has not moved from that residence; or

(c) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(3) Any ordinance, resolution, or other legal restriction prescribing where sex offenders may reside which does not meet the requirements of this section is void, regardless of whether such ordinance, resolution, or legal restriction was adopted prior to, on, or after July 14, 2006.

Source: Laws 2006, LB 1199, § 29.