

ORDINANCE NO. 210
(Predatory Offender Residency Restriction)

CITY OF MAYER
CARVER COUNTY, MINNESOTA

September 12, 2016

AN ORDINANCE PERTAINING TO PREDATORY OFFENDER RESIDENCY RESTRICTIONS

THE CITY COUNCIL OF THE CITY OF MAYER, CARVER COUNTY, MINNESOTA, ORDAINS:

Section 1. Findings and Intent.

- (1) Repeat predatory offenders present a threat to the public safety of the community as a whole, especially children. Predatory offenders assigned a risk level III under the risk assessment scale established by the Minnesota Commissioner of Corrections are more likely than other classifications of offenders to use physical violence, to repeat their offenses, to have committed multiple offenses, to have more victims than are ever reported, and, as a result, to be prosecuted for only a fraction of their crimes. The cost of predatory offender victimization to society at large, while not precisely calculable, is steep.
- (2) As expressed in Minn. Stat. § 412.221, subd. 32, the City has power to provide for the prevention of crime, the benefit of residence, and the promotion of health, safety, order, convenience, and the general welfare, as it deems necessary and expedient.
- (3) The City has a compelling interest in promoting, protecting, and improving the health, safety, and general welfare of its citizens, and specifically has a compelling interest to protect against the serious threat to children posed by predatory offenders, including the risk of recidivism and harm that released sex offenders, assessed at a risk level III due to their high risk of re-offense, will pose to this community.
- (4) By this ordinance, the City prohibits certain predatory offenders of risk level III from establishing temporary or permanent residence in certain locations where children are known to regularly congregate in concentrated numbers.

Section 2. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) Child: Any person under the age of eighteen (18).

- (2) Child care facility: a facility licensed by the Minnesota Department of Human Services, or Carver County, to provide child care, including facilities having programs for children known as nursery schools, day nurseries, child care centers, day care centers, cooperative day care centers, and Head Start programs.
- (3) Designated offender: Any person who has been categorized as a level III predatory offender under Minn. Statutes, Section 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.
- (4) Permanent residence: A place where a person abides, lodges, or resides for 14 or more consecutive days.
- (5) Public park: A public recreation center or area, created, established, designated, maintained, provided, or set aside by the City, County, or State, for the purposes of public rest, recreation, and enjoyment, and all buildings, facilities, and structures located thereon.
- (6) Public playground: A City, County, or State-owned public improved outdoor area designed, equipped, and set aside for children's play, including a school building playground, a child care building playground, a play area of a public park, or an area that contains permanent play equipment open to the public.
- (7) Temporary residence: A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
- (8) School: Any public or nonpublic elementary or secondary school.

Section 3. Residence Prohibition.

- (1) Prohibited Location of Residence: It is unlawful for any designated offender to establish a permanent or temporary residence within one thousand (1,000) feet of any school, public park, or public playground, or child care facility.
- (2) Measurement of Distance: For purposes of determining the minimum distance separation required by Paragraph (1), the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence of the designated offender to the nearest outer property line of the school, child care facility, public park, or public playground.
- (3) Official Map: The City Clerk shall maintain an official map showing prohibited locations as defined by this Ordinance. The Clerk shall update the map annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all encompassing, or relieve any person subject to this ordinance from their duty to comply with the prohibitions herein, since prohibited zones change from time to time.

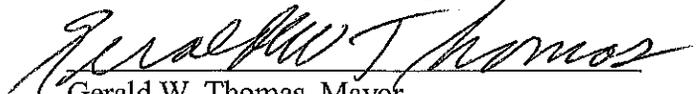
Section 4. Penalty. Any person convicted of violating any provision of this article shall be punished as provided in Section 10.99 of the City of Mayer Code of Ordinances. Each day that a designated offender maintains a permanent or temporary residence in violation of this Code shall constitute a separate offense.

Section 5. Exemptions. A designated offender residing within the prohibited area as described in Section 3 does not commit a violation of that Section if any of the following apply:

- (1) The designated offender established the permanent or temporary residence and reported and registered the residence pursuant to Minn. Statutes Sections 243.166 and 243.167 or a successor statute, prior to the effective date of this ordinance.
- (2) The designated offender was a minor when he or she committed the offense and he or she was not convicted as an adult.
- (3) The designated offender is a minor.
- (4) The school, public park, or public playground within one thousand feet (1,000) feet of the designated offender's permanent residence or temporary residence or the child care facility of the designated offender's permanent residence or temporary residence was opened after the designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to Minn. Statutes Sections 243.166 and 243.167 or a successor statute.
- (5) The designated offender's permanent or temporary residence is also the primary residence of the designated offender's parent(s), grandparent(s), sibling(s), spouse, or child(ren).
- (6) The designated offender's permanent or temporary residence is property purchased, leased, or contracted with and licensed by the Minnesota Department of Corrections prior to the effective date of this ordinance

Section 6. Effective Date. This ordinance shall be in full force and effect upon its adoption and publication according to law.

Passed and adopted by the City Council of the City of Mayer this 12th day of September, 2016.


Gerald W. Thomas, Mayor

ATTEST

Lois A. Maetzold, Clerk

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