

ORDINANCE NO.152

AN ORDINANCE pertaining to residency restrictions and prohibitions for persons convicted of sexual offenses.

The City Council of Finlayson ordains:

§1.01 Findings and intent

§1.02 Definitions

§1.03 Sexual offender and sexual predator residence prohibition; penalties; exceptions

§1.04 Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties

§ 1.01 FINDINGS AND INTENT.

(A) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(B) It is the intent of this chapter to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of its citizens by creating a civil, non-punitive regulatory scheme, establishing areas around locations where children regularly congregate in concentrated numbers, wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

§ 1.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILDREN. Persons age 16 and younger.

DAY CARE CENTER. A facility licensed by the State of Minnesota in which care, supervision and training for children is provided for part of a 24-hour period.

DESIGNATED OFFENDER. Any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, or has been categorized as a Level III sex offender under M.S. § 244.052 or successor statute.

DESIGNATED SEXUAL OFFENSE. A conviction, adjudication of delinquency, commitment under M.S. Chapter 253B, or admission of guilt under oath without adjudication involving any of the following offenses: M.S. §§ 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor statutes; or a similar offense from another state.

PARK or PLAYGROUND. Any land, including improvements, operated by the city for the use by the general public as a recreational area.

PERMANENT RESIDENCE. A place where the person abides, lodges or resides for 14 or more consecutive days.

SCHOOL. Any public, private or parochial educational institution that offers educational instruction to individuals under the age of 18.

TEMPORARY RESIDENCE. A place where the 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 address or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or on consecutive days in any month, and which is not the person's permanent residence.

§ 1.03 SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS.

(A) *Prohibited location of residence.* It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, place of worship that provides regular educational programs, park or playground.

(B) *Prohibited activity.* It is unlawful for any designated offender to participate in a holiday event involving children under 16 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this division.

(C) *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 nearest outer property line of a school, day care center, park, playground,

place of worship, or other place where children regularly congregate. The City Clerk shall maintain an official map showing prohibited locations as defined by this chapter. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones.

(D) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$1,000, or by confinement for a term not exceeding 90 days, or by both such fine and confinement. Each day a person maintains a residence in violation of this chapter constitutes a separate violation.

(E) *Exceptions.* A designated offender residing within a prohibited area as described in § 1.03(A) does not commit a violation of this section if any of the following apply:

(1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. § 243.166, § 243.167, or successor statute, prior to November 17, 2011.

(2) The school, place of worship, park or day care center within 2,000 feet of the person's permanent residence was designated or opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. § 243.166 or § 243.167.

(3) The residence is a property owned by the Minnesota Department of Corrections.

(4) The person's conviction for the designated offense was reversed on appeal.

(5) Nothing in this provision shall require any person to sell or otherwise dispose of any real property acquired or owned prior to the conviction restricting residency under this chapter.

§ 1.04 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; PENALTIES.

(A) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in § 1.03(A).

(B) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the ordinance enforcement provisions and procedures as provided in § 1.20 of this ordinance.

(C) If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender.

§1.05. **Effective date.** This ordinance becomes effective from and after its passage and publication.

Passed by the City Council of Finlayson on April 8, 2013.

Approved:

Mayor, Xavier Villarreal

Attested:

City Clerk/Administrator