

BOROUGH OF HARRISVILLE
BUTLER COUNTY, PENNSYLVANIA

ORDINANCE NO. 02 -2009

AN ORDINANCE OF THE BOROUGH OF HARRISVILLE, BUTLER
COUNTY, PENNSYLVANIA ESTABLISHING SEX OFFENDER AND
RESIDENCY RESTRICTIONS AND PENALTIES FOR VIOLATIONS

WHEREAS, the Pennsylvania Legislature has adopted requirements for the registration of sex offenders, commonly known as Megan's Law II, as set forth at 42 PA. C.S.A. §9791 et seq. (hereinafter the "statute"); and

WHEREAS, the statute requires that persons convicted of various offenses and persons adjudicated sexually violent predators must register with the Pennsylvania State Police for a period of not less than ten (10) years, all of which is set forth more fully in the statute; and

WHEREAS, the statute does not contain any restrictions with regard to where persons convicted of the crimes and therefore subject to registration may reside; and

WHEREAS, the Borough Council of the Borough of Harrisville finds that there is a danger of recidivism posed by persons convicted of the crimes and subject to registration requirements of the statute, and that the danger of recidivism is of paramount concern to the Borough; and

WHEREAS, the Borough Council of the Borough of Harrisville finds that persons convicted of the crimes and subject to registration requirements of the statute have a reduced expectation of privacy and finds further that residency restrictions for such persons provide additional protection for the children of the community; and

WHEREAS, the Borough Council of the Borough of Harrisville has reviewed the Legislative findings and declaration of policy of the Pennsylvania Legislature with regard to the statute; and

WHEREAS, the Borough of Harrisville desires to adopt this Ordinance for purpose of protecting and promoting the health, safety, comfort, convenience and general welfare of the residents of the Borough.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE Borough Council of the Borough of Harrisville, Butler County, Pennsylvania as follows:

Section 1. The following terms shall have the following definitions for purposes of this Ordinance:

Child Care Facility: Any day care center, child care facility, or any other child care service facility or home day care facility, whether the facility is licensed pursuant to the laws of the Commonwealth of Pennsylvania, or whether it may be exempt from licensing requirements or unlicensed.

Community Center: Any building (s) and all related areas meeting the definition of Community Center within the Code, where all residents of the Borough are permitted a right of entry, which may include a requirement of a paid membership.

Public Park or Recreational Facility: Any recreational facility, playground or park owned or operated by the Borough or any other government agency, including but not limited to the school district, the county or the Commonwealth of Pennsylvania.

Permanent Residence: Permanent Residence is a place where a person lives, abides, lodges, or resides and remains for 14 or more consecutive or non-consecutive days during any calendar year.

Temporary Residence: Temporary Residence is a place where a person lives, abides, lodges or resides and remains for less than 14 or more consecutive or non-consecutive days during any calendar year, AND, the person is able to identify a different address that constitutes the person's Permanent Residence.

School: Any public or private school meeting the definition of "school" under the Code providing educational services to minor children.

Sex Offender: Any person required under the laws of the Commonwealth of Pennsylvania to register pursuant to Megan's Law II, as set forth as 42 Pa. C.S.A. §9791 et seq. referenced herein as the "statute".

Section 2. Residency Restriction/Prohibition

1. It shall be unlawful for any sex offender to establish a permanent or temporary residence within 2500 feet of any Child Care Facility, Community Center, Public Park, Recreational Facility or School.

2. For the purpose of determining the distance, it shall be measured by a straight line from the outer property line of the residence of the sex offender to the nearest outer property line of the Child Care Facility, Community Center, Public Park, Recreational Facility or School.

Section 3. Notice to Move and Procedure

1. The Borough shall issue a written notice of violation by both regular mail and by certified mail, return receipt, to any Sex Offender residing on a permanent or temporary basis within 2500 feet of any Child Care Facility, Community Center, Public Park, Recreational Facility or School.

2. The Sex Offender shall vacate the location, find a different place to live that is not in violation of the law, and move within forty-five days of the date the Notice is received. The

Notice shall be deemed to be received on the date reflected on the certified mail receipt or, if the certified mail is not accepted, then forty-five (45) days from the date of mailing. The Sex Offender may not relocate to any temporary or permanent residence located within 2500 feet of any Child Care Facility, Community Center, Public Park, Recreational Facility or School.

3. If the Sex Offender fails to relocate to an acceptable location within the time required above, each additional day shall constitute a continuing violation of the Ordinance.

4. If the Sex Offender requires permission to return to the premises for a limited period of time not to include any overnights after the expiration of the forty-five (45) days for any purpose reasonably related to the relocation, then the Sex Offender may contact the Borough and arrange for appropriate supervision of the activities. The Sex Offender must make the request in writing to the Borough at least five (5) business days in advance of the date that the Sex Offender desires to return to the building. If the Sex Offender fails to give the Borough the required advance Notice in writing, then the Sex Offender shall be deemed to re-offend and violate this Ordinance each and every time that the Sex Offender returns to the premises after the expiration of the forty-five (45) day Notice to Move referenced above herein.

Section 4. Exceptions

1. This Ordinance may not be applied retroactively. This Ordinance does not apply to any person meeting the definition of Sex Offender prior to the date of passage of the within Ordinance, whose place of residence was established and lawful prior to the passage of the within Ordinance. Any Sex Offender lawfully residing within 2500 feet of a Child Care Facility, Community Center, Public Park, Recreational Facility, or School prior to the date of passage of the within Ordinance may continue to reside in that location unless such person re-offends under the statute. If the Sex Offender is convicted under the statute after the date of passage of the

within Ordinance, then this Ordinance shall become applicable to that Sex Offender upon the date the Sex Offender is convicted of the new offense under the statute.

2. If a person meets the definition of a Sex Offender under this Ordinance, and then a Child Care Facility, Community Center, Public Park, Recreational Facility or School is established within 2500 feet of the residence of the Sex Offender, then the Sex Offender shall not be required to move under this Ordinance unless the Sex Offender re-offends. If the Sex Offender is convicted under the statute after the establishment of any Child Care Facility, Community Center, Public Park, Recreational Facility or School within 2500 feet of the residence of the Sex Offender, then this Ordinance shall become applicable to that Sex Offender upon the date the Sex Offender is convicted of the new offense under the statute.

Section 5. Penalties

A person who is found to have violated this Ordinance and convicted of the violation by a District Justice shall be assessed the full reasonable attorney fees of the Borough, the Court Costs associated with the District Justice proceeding, the reasonable administrative costs of the Borough with regard to investigation and enforcement, and a penalty of One Hundred (\$100.00) Dollars for each day that the Sex Offender fails to move after the expiration of the Notice period. Each day shall constitute a new violation warranting assessment of the penalty. Any day that the Sex Offender returns to the building without proper advance Notice shall constitute a new violation warranting assessment of the penalty.

Section 6. Severability

If any provision, sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared as the intent of the Borough of Harrisville that this Ordinance would have been adopted had such stricken provisions not be included herein.

Section 7. Repeal

All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Section 8. Enactment and Effective Date

This Ordinance shall take effect five (5) days after the enactment thereof.

ENACTED AND ORDAINED this 7th day of December, 2009.

BOROUGH OF HARRISVILLE

By Dennis Blom

By Joe Russo

By Linda J. Wezner