

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF RICHLANDTOWN, BUCKS COUNTY, PENNSYLVANIA, ESTABLISHING RESIDENCY RESTRICTIONS FOR VIOLENT SEXUAL PREDATORS AND SEX OFFENDERS AND REMEDIES FOR VIOLATIONS THEREOF

Preamble

The Council of Richlandtown Borough hereby enacts and ordains as follows:

WHEREAS, the Pennsylvania Legislature enacted legislation requiring the registration of sex offenders, now referred to as Megan’s Law II by the Act of May 10, 2000, P.L 74, No. 18, as amended 42 Pa. C.S. §9791 et. seq.; and

WHEREAS, the United States Congress enacted Title 42, Sections 14701 and 3756 of the United States Code, in an effort to protect children, requiring the registration and monitoring of certain sexual offenders; and

WHEREAS, the Richlandtown Borough Council is concerned about certain convicted sexual offenders and violent sexual predators who are released from custody and may repeat the unlawful acts for which they had originally been convicted; and

WHEREAS, Pennsylvania has a significant number of registered sex offenders and several of said offenders are classified as “Sexually Violent Predators” under Megan’s Law; and

WHEREAS, the Borough Council finds that the recidivism rate for released sexual offenders is alarmingly high, especially for those who commit crimes against children; and

WHEREAS, prohibiting sexual offenders and violent sexual predators from living within One Thousand Feet (1,000’) of places where children traditionally gather will reduce the amount of incidental contact between sexual offenders and violent sexual predators and children; and

WHEREAS, reducing the amount of incidental contact between sexual offenders and violent sexual predators and children will decrease the opportunity and temptation for sexual offenders and sexual predators to commit new sexual offenses against children; and

WHEREAS, many states have enacted some form of residency restriction applicable to sex offenders; and

WHEREAS, a number of Federal Courts, including the U.S. Court of Appeals for the 8th Circuit, the U.S Court of Appeals for the 6th Circuit, the U.S District Court for the Northern District Georgia, the U.S. District Court for Oklahoma, and the U.S District Court for the

Western District of Ohio, as well as a multiple state appellate courts have upheld similar residency restriction; and

WHEREAS, Richlandtown Borough is authorized by the State Legislature to adopt ordinances necessary for the maintenance of peace, good government, health and welfare of its citizens, the security and safety of persons within the Borough, and the occupation of land; and

WHEREAS, Borough Council has determined that it is in the best interest of the Borough and its residents to regulate the residency of sexual offenders and violent sexual predators so as to protect the health, safety and welfare of the Borough, its residents and especially its children; and

WHEREAS, this Ordinance is intended to be regulatory and remedial in nature and non-punitive.

NOW, THEREFORE, be it *ORDAINED AND ENACTED* by the Council of the Borough of Richlandtown, Bucks County, Pennsylvania:

SECTION I. INCORPORATION OF RECITALS.

The foregoing recitals are herein incorporated by reference as though more fully set forth at length.

SECTION II. DEFINITIONS.

1. Child Care Facility. A Child Day Care Center, a Group Child Day Care Home or a Family Child Day Care Home as those terms are defined by and as those facilities are licensed, certified or registered in accordance with 55 Pa. Code Chapters 3270, 3280 and 3290 or any other child care facility or child care service facility which may be exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania.

2. Park. Any publicly-owned property or park in which active recreational facilities, such as playgrounds or ball fields, are located.

3. Residence. A place where a person lives, abides, or lodges for thirty (30) or more consecutive or nonconsecutive days in a calendar year.

4. School. Any public or private school which provides educational or religious educational services to a minor. For the purpose of this Ordinance the term “school” shall include private schools, including church-run schools and nursery schools which may be exempt from state licensing under 22 Pa. Code Chapter 51, Section 55.1; provided that the church-run school must provide notice to the Borough of its existence by registering with the Borough.

5. Temporary Residence. A place where a person lives, abides, or lodges for a period of less than thirty (30) days in the aggregate during any calendar year.

SECTION III. RESIDENCY RESTRICTION.

1. The Richlandtown Borough Council has reviewed the findings of the Pennsylvania Legislature when it adopted Megan’s Law II as well as resource materials from the Criminal Justice Information Services Division of the Federal Bureau of Investigation and the Center for Sex Offender Management (www.csom.org.) as established in June, 1997 as a collaborative effort of the Office of Justice Programs, the National Institute of Corrections and the State Justice Institute and administered by the Center for Effective Public Policy and the American Probation and Parole Association, the goal of which is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. Council finds that 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, and 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.

2. It is the intent of this Ordinance to serve the Borough’s compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Borough by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from residing or temporarily residing.

3. It is unlawful for any person who is convicted of a crime against a minor which requires registration under 42 Pa. C.S.A Section 9795.1 of Megan’s Law II, (42 P.A.C.S. §9791 *et seq*), or who has been adjudicated a Violent Sexual Predator in accordance with Megan’s Law II to reside or temporarily reside within one thousand feet (1000’) of any of the following:

- a. Schools;
- b. Public Libraries;
- c. Parks;
- d. Child Care Facilities, including Church-Sponsored Day Cares; or
- e. Active Open Space Facilities.

4. A person convicted of an offense under 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances involving minors) which requires registration under Megan’s Law II shall be subject to the residency requirements of this Ordinance.

5. 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 residence or temporary residence to the nearest outer property line of the school, library, child care facility, park, or other facility listed in Section III.3. of this Ordinance.

6. Any person regulated by this Ordinance who resides or lives within One Thousand Feet (1,000') of any school, library, child care facility, park, or other facility included in Section III.3. of this Ordinance, shall have sixty (60) days from receipt of written notice from the Borough of the prohibition set forth herein to move to a location not prohibited by this Ordinance. Failure to move to a location which is in compliance with this Section within the sixty (60) day time period shall constitute a violation of this Ordinance.

SECTION IV. REMEDIES AND ENFORCEMENT.

1. If a person notified of a violation of this Ordinance fails or refuses to relocate with sixty (60) days of the date of the notice, Richlandtown Borough or any person residing or entity located within one thousand feet (1,000') of a facility listed in Section III.3. of this Ordinance may bring suit in equity in the Court of Common Pleas of Bucks County seeking injunctive relief and/or preliminary injunctive relief to require the sex offender or violent sexual predator to relocate.

SECTION V. EXCEPTIONS.

A person residing within one thousand feet (1,000') of any school, public library, child care facility, park, or other facilities listed in Section III.3. of this Ordinance does not commit a violation of this Ordinance if one of the following applies:

1. The person resided in the dwelling in question at least one (1) year immediately prior to adoption of this Ordinance and has maintained the dwelling as his or her permanent residence continuously since the adoption of this Ordinance.
2. The school, library, childcare facility, park, or other protected facility located within one thousand feet (1,000') of the person's residence or temporary residence was opened after the person established the residence.

SECTION VI. NOTICE.

Borough Council shall supply or cause to be supplied to the Pennsylvania Board of Probation and Parole a duly certified copy of this Ordinance to inform the State and County prison and probation and parole personnel about the limitations on residence set forth in this Ordinance.

SECTION VII. PUBLICATION.

The Borough Secretary is hereby directed to have prepared and maintain in Borough Hall a map of the Borough depicting the areas where sex offenders that Section III.3. above applies to are restricted from residing on a permanent or temporary basis.

SECTION VIII. SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION IX. EFFECTIVE DATE.

This Ordinance shall become effective five (5) days after final enactment.

ENACTED AND ORDAINED this 14th day of June, A.D., 2010 at a regular public meeting.

RICHLANDTOWN BOROUGH
COUNCIL

Attest:

Joe Geib, Secretary/Manager

Jim Bowman, President

Carl Raub, Mayor