

CITY OF DOVER ORDINANCE #2012-08

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Dover Code, Chapter 70 - Offenses and Miscellaneous Provisions be amended to insert a new Section 70-7 - Registered Sexual Offenders:

**70-7. - Registered Sexual Offenders**

- (a) *Registration Required.* Sex offenders, as defined under the provisions of 11 Del. C., c. 41, §4120A, shall register their places of residence and employment as required under the provisions of 11 Del. C., c. 41, §4120.
  
- (b) *Prohibition on Residency and Employments.*
  - (1) Sex offenders assigned as Risk Assessment Tier II or Tier III under the provisions of 11 Del. C., c. 41, §4120, shall be prohibited from residence or employment within 500 feet of a day care center as defined in Appendix B - Zoning, Article 12 - Definitions, of the Dover Code.
  - (2) Any sex offender assigned as Risk Assessment Tier II or Tier III who maintains residence or employment within 500 feet of a day care center on the date of adoption of this ordinance shall comply with the provisions of the ordinance within 12 months.
  - (3) Any sex offender who is under 18 years of age and resides with a parent or legal guardian shall be exempt from the provision of subsection (b)(2) of this section.
  
- (c) *Prohibition on rentals and leaseholds.*
  - (1) It is unlawful for a property owner to knowingly and intentionally with actual knowledge and after being made aware the person is a sexual offender let or rent any place, structure, or part thereof, to a sexual offender, with the knowledge that it will be used as a permanent or temporary residence, if such place, structure or part thereof, is located within 500 feet of any day care center. In any prosecution for a violation of this section it must be shown:
    - a. That the property owner knowingly and intentionally with actual knowledge and after being made aware the person is a sexual offender let or rented the premises to a person who was a registered sexual offender; and

- b. The property owner had actual knowledge that the place, structure, or part thereof would be used by the registered sexual offender as a permanent or temporary residence of property located within the residential zoning classification.

Nothing herein shall be deemed to require the property owner to make any independent determination whether the person is a sexual offender.

(2) *Exclusions.* A sexual offender abiding, lodging, or residing in a permanent or temporary residence within 500 feet of any day care center does not commit a violation of this section provided the sexual offender is in full compliance with probation, parole, or conditional release, and does not commit another sexual offense, and is in compliance with the residency restrictions, if any of the following:

- a. The sexual offender was a minor when committing the offense causing the designation as a sexual offender and was not sentenced as an adult for that offense.
- b. The sexual offender is under the age of 18.
- c. The day care center was opened or established after the sexual offender established the permanent residence; and the residence was reported and registered.

It is not the intent of this article to impair valid, existing and bona fide contract rights, provided however that the provisions of this article shall apply upon final termination. Extensions or renewals of any leasehold relationship is prohibited. When a person who is the subject of this article changes residences, this article shall fully apply to such persons.

(d) *Measurement of distance.*

For purposes of measuring separation of a residence from a day care center, all distances shall be measured from the entrances and exits of the residence or place of employment running in a direct line to the outermost entrances and exits of the day care center.

(e) *Prohibited Activities for Sexual Offenders.*

- (1) It is unlawful for any Sexual Offender to participate in a holiday event or practice involving children under 18 years of age, such as distributing candy or other items to children on Valentine's Day, Halloween, Christmas, or any other holiday or event. Participation is to be defined as attendance at, or taking part of, or cooperation with an event.
- (2) It is unlawful for any Sexual Offender to wear costumes for the primary purpose of entertaining, attracting, or encouraging interaction with children.

- (3) Any person designated a sexual offender shall be required on October thirty-first of each year or any other day upon which Halloween is celebrated to:
  - a. Avoid all Halloween related contact with children;
  - b. Post a sign at his/her residence stating, "No candy or treats at this residence." Such signs shall be in letters at least two inches high and shall be legible from the street or road adjacent to the residence;
  - c. Except for lighting provided on a year round basis by a sexual offender or the owner or manager of a multi-family residential unit for the purpose of security or walkway or hallway illumination, all outside residential lighting shall be off during the evening hours after 5:00 p.m., and no exterior holiday decorations shall be exhibited on the sexual offender's residence or on the property upon which the residence is located.
  
- (4) Holiday events or practices in which the sexual offender is the parent or guardian of the child or children involved, and where no non-familial children are present, are exempt from this section.
  
- (f) *Penalties.* Any person who violates this ordinance shall be fined in accordance with Appendix F - Fees and Fines, Section 70-7. Every day that a violation occurs shall constitute a separate offense.

BE IT FURTHER ORDAINED That Appendix F- Fees and Fines be amended by adding a new Section 70-7 under Chapter 70 - Offences and Miscellaneous Provisions as follows:

Sec. 70-7	Registered Sexual Offenders		
	Subsec. (d)	Penalties	\$500.00 for any offense; each day shall constitute a separate offense.

ADOPTED: APRIL 9, 2012

SYNOPSIS

The proposed ordinance would prohibit registered Tier II and Tier III sex offenders from living or working within 500 feet of a daycare center and from participating in certain events involving children.

(Sponsors: Lynn, Anderson, Bonar)

Actions History:

- March 9, 2012 - First Reading by City Council
- February 29, 2012 - Considered by Safety Advisory and Transportation Committee