

ORDINANCE NO. 152

AN ORDINANCE DEALING WITH RESTRICTING THE RESIDENCY OF CONVICTED SEX OFFENDERS WITHIN THE CITY OF BROWNS VALLEY

Findings.

1. The existing Ordinances do not contain a provision restricting the residency location of individuals convicted of sex offenses within the City of Browns Valley.
2. The City of Browns Valley has several sex offenders who reside or who are looking to reside within the City of Browns Valley.
3. The Browns Valley City Council believes that it is in the best interests of the residents of the City of Browns Valley to amend its Ordinances to include a provision restricting the ability of convicted sex offenders from residing in certain areas within the City of Browns Valley.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BROWNS VALLEY ORDAINS AS FOLLOWS:

That Browns Valley City Ordinance 152 is hereby enacted, and shall read as follows:

“152. SEXUAL OFFENDERS AND SEXUAL PREDATORS

152.01 Findings and Purpose.

- 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, 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, and specifically to the City of Browns Valley, while incalculable, clearly exorbitant.
- B. It is the intent of this article to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating 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.

152.02 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:

- A. **Designated Offender** means 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 Minnesota Statute 244.052 or a successor statute.
- B. **Designated Sexual Offense** means a conviction, adjudication of delinquency, commitment under Minnesota Statute 253B, or admission of guilt under oath without adjudication involving any of the following offenses: 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.
- C. **Permanent Residence** means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days. An ownership interest by the person in such residence is not required.

- D. **Temporary Residence** means a place where the person abides, lodges, or resides for a period of fourteen (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 nonconsecutive days in any month, and which is not the person's permanent residence.

152.03 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:

1. Within 2,000 feet of any school, playground, licensed day care provider, or city park; or
2. Within 1,000 feet of any designated public school bus stop, place of worship which provides regular educational programs (i.e. Sunday school), or other places where children are known to congregate.

- B. **Measurement of Distance.**

1. 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, licensed day care provider or city park.
2. The City Administrator shall maintain an official map showing prohibited locations as defined by this Ordinance. The City Administrator shall update the map at least annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all-encompassing since prohibited zones change from time to time including but not limited to designated public school bus stops or other places where children are known to congregate.

- C. **Prohibited activity.** It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (18) 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 paragraph.

- D. **Penalties.** A person who violates this section shall be punished by a fine not exceeding \$1,000.00 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 ordinance constitutes a separate violation.

- E. **Exceptions.** A designated offender residing within a prohibited area as described herein 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 Minnesota Statute 243.166, 243.167, or successor statute, prior to enactment of this ordinance.
2. The person was a minor when he/she committed the offense and was not convicted as an adult.
3. The person is a minor.

4. The school or licensed day care provider within 2,000 feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute 243.166 or 243.167.
5. The residence is also the primary residence of the person's spouse or minor children.
6. The residence is a property owned or leased by the Minnesota Department of Corrections.

152.04 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 this ordinance.
- 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 code enforcement provisions and procedures as provided herein.
- 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.

152.05 Severability.

"Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid."


PASSED AND ADOPTED this 11th day of January, 2016.

BROWNS VALLEY CITY COUNCIL



Mike Heck, Vice-Mayor

ATTEST:



Thomas A. Schmitz, City Administrator

Motion: Miller
Seconded: Dusing
Published:
assed: 4-0