

ORDINANCE NO. 742

AN ORDINANCE ENACTING RESIDENCY RESTRICTIONS FOR SEXUAL PREDATORS AND SPECIFIED SEX OFFENDERS

WHEREAS, sex offenders and predators endanger society, and the danger can be especially great for the community's youth; and

WHEREAS, restricting sex offenders from living near locations where youth congregate lessens the potential for the offender to come into contact with youth; and

WHEREAS, the City Council finds that the adoption of the residency restrictions set forth herein further the City's interest in protecting the safety and welfare of its youth population.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Chapter 10 of the Dacono Municipal Code is hereby amended by the addition of a new Article 10 to read as follows:

Article 10

Prohibited Residency of Sex Offenders

Sec. 10-160. Findings and Intent.

(a) The City Council finds that sexual predators and specified sex offenders who use physical violence or who prey on children pose an extreme threat to public safety. Sexual predators and specified sex offenders endanger society. Removing specified sex offenders from the regular proximity of places where children are located, and limiting the frequency of contact between sexual predators and specified sex offenders and children will reduce the opportunity and risk for offenses to be committed.

(b) This Article is intended to serve the City's compelling interests to promote, protect and improve the health, safety and welfare of the public by creating areas, around locations where children regularly gather in concentrated numbers, where sexual predators and specified sexual offenders are prohibited from establishing either temporary or permanent residence.

Sec. 10-161. Definitions.

As used in this Article, unless the context otherwise requires:

Park means any public park, including playgrounds.

Permanent residence means a place where a person abides, lodges or resides for fourteen (14) or more consecutive days.

Recreation center means any publicly owned recreation center or a private recreation center that serves children.

School means any public, private, parochial, charter or other school attended by students under the age of eighteen (18), except for home schools.

Sexual predator means any person who has been found to be a sexually violent predator pursuant to section 18-3-414.5, C.R.S.

Specified sex offender means any person who has been required to register under the Colorado Offender Registration Act, section 16-22-101, *et seq*, C.R.S., and:

1. Who has been convicted of a felony for an offense requiring registration;
2. Who has multiple convictions for offenses requiring registration; or
3. Whose offenses requiring registration involved multiple victims.

Swimming pool means a privately or publicly owned water-filled structure used for the purpose of swimming or other water activities, including splash parks; provided, *swimming pool*, as used in this Article, shall not include any waterfilled structures located at private, single-family residences.

Temporary residence means a place where a person abides, lodges or resides for a period of five (5) or more days in an aggregate calendar year and which is not the person's permanent residence; or a place where a person routinely abides, lodges or resides for a period of five (5) or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

Sec. 10-162. Prohibition.

(a) It shall be unlawful for a sexual predator or a specified sex offender to establish a permanent or temporary residence within one thousand (1,000) feet of any school, park, playground, recreational center, swimming pool, or licensed day care provider.

(b) It shall be unlawful to let or rent any portion of any property, room, place, structure, or trailer or other vehicle, to a sexual predator or specified sex offender with the knowledge that it will be used as a permanent or temporary residence in violation of this Article.

Sec. 10-163. Exceptions.

(a) A sexual predator or specified sex offender is not guilty of a violation of Section 10-152 above if:

(1) The sexual predator or specified sex offender had established the permanent or temporary residence prior to the effective date of this Article; provided, however, that this exception shall not apply if the sexual predator or specified sex offender committed and was subsequently convicted of an offense, for which registration under the Colorado Sex Offender Registration Act is required, after the effective date of this Article;

(2) The sexual predator or specified sex offender is placed in the residence pursuant to a State-licensed foster care program; or

(3) The school, park, playground, swimming pool or recreation center was opened after the sexual predator or specified sex offender established the permanent or temporary residence; provided, however, that this exception shall not apply if the sexual predator or specified sex offender committed and was subsequently convicted of an offense, for which registration under the Colorado Sex Offender Registration Act is required, after the date on which the school, park, playground, swimming pool or recreation center was opened.

(b) A person who lets or rents any portion of any property, room, place, structure, or trailer or other vehicle, to a sexual predator or specified sex offender with the knowledge that it will be used as a permanent or temporary residence in violation of this Article is not guilty of a violation of Section 10-152 above if:

(1) The person let or rented the property, room, place, structure, trailer or other vehicle to the sexual predator or specified sex offender prior to the effective date of this Article;

(2) The person lets or rents the property, room, place, structure, trailer or other vehicle to a sexual predator or specified sex offender pursuant to a State-licensed foster care program; or

(3) The person let or rented the property, room, place, structure, trailer or other vehicle to the sexual predator or specified sex offender prior to the opening of any school, park, playground, swimming pool or recreation center.

Sec. 10-164. Measurement.

For purposes of determining a minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the school, park, playground, swimming pool or recreational center is located to the nearest point on the outer property line of the property on which the permanent or temporary residence is located.

Section 2. Violations of this ordinance are subject to the General Penalty provided for in Chapter 1, Article 5, Section 1-70 of the Dacono Municipal Code.

Section 3. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. The repeal or modification of any provision of the Dacono Municipal Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 14th day of June, 2010.

PUBLIC HEARING AND SECOND READING WILL BE THE 28th day of June, 2010, AT 7:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2010.

CITY OF DACONO, COLORADO

Charles Sigman, Mayor

ATTEST:

Valerie Elliott, City Clerk

Summary of Ordinance No. _____, **“AN ORDINANCE ENACTING RESIDENCY RESTRICTIONS FOR SEXUAL PREDATORS AND SPECIFIED SEX OFFENDERS”**

Prohibits sexual predators and specified sex offenders from establishing temporary or permanent residence within 1,000 feet of any school, park, playground, recreation center, swimming pool, or licensed day care provider.