

PUBLIC WORKS AND UTILITIES COMMITTEE

10-022-0

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW SECTION 34-17 TO THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PREDATORY OFFENDER RESIDENCY RESTRICTIONS.

BY COUNCILORS GAUTHIER, GARDNER AND HARTMAN:

The city of Duluth does ordain:

Section 1. That the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 34-17 which reads as follows:

Sec. 34-17. Predatory offenders residency--prohibited conduct.

(a) Findings and intent:

(1) Repeat predatory offenders present an extreme threat to the public safety. Predatory offenders are likely to use physical violence and to repeat their offenses, and most predatory 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 predatory offender victimization to society at large, while incalculable, unmistakably steep;

(2) It is the intent of this Section to serve the city's compelling interest to promote, protect and improve the health, safety, and welfare of Duluth citizens by creating areas around locations where children regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence;

(b) 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;

(1) Designated predatory offender. Any person who has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or a similar statute

from another state in which that person's risk assessment indicates a high risk of reoffense;

(2) Permanent residence. A place where a person abides, lodges, or resides for 14 or more consecutive days;

(3) Temporary residence. A place where a person abides, lodges, or resides for a period of 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 non-consecutive days in any month and which is not the person's permanent residence;

(4) School. A public or nonpublic elementary or secondary school;

(5) Licensed child care center. A group child care center currently licensed by the St. Louis County, Minnesota public health and human services department;

(6) Public playground. A city-owned, improved outdoor are designed, equipped, and set aside for children's play and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures;

(c) Predatory offenders prohibition; penalties; exceptions.

(1) Prohibited location of residence. It is unlawful for any designated predatory offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed child care center or public playground;

(2) Measurement of distance. 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 the nearest outer property line of the school, licensed child care center, or public playground;

(3) Penalties. A person who violates this Section shall be punished by a fine of not exceeding \$1,000 or confinement for a term not exceeding 90 days, or be both such fine and confinement. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation;

(4) Exceptions. A designated predatory offender residing within a prohibited area as described in Section 34-17(c)(1)-(2) does not commit a violation of this Section if any of the following apply:

(A) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167, or a successor statute, prior to June 10, 2010;

(B) The person was a minor when he/she committed the offense and was not convicted as an adult;

(C) The person is a minor;

(E) The school, licensed child care center or public playground within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167, or a successor statute;

(F) The residence is also the primary residence of the person's parents, grandparents, siblings or spouse;

(G) The residence is a property purchased or leased by the Minnesota department of corrections prior to June 10,

2010.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:

Attorney

CCREQ/ATTY SBH:cjk 4/19/2010

STATEMENT OF PURPOSE: This ordinance prohibits Level III predatory offenders from residing within 2,000 feet of a Duluth school, licensed child care center and public playground. This ordinance serves Duluth's compelling interest to promote, protect and improve the health, safety and welfare of its citizens by creating areas around locations where children regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence.