

ORDINANCE RECORD

NO. 72 8--REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 992

AN ORDINANCE TO ADD CHAPTER 135 TO THE LA VISTA MUNICIPAL CODE PRESCRIBING RESIDENCY RESTRICTIONS FOR SEXUAL PREDATORS PURSUANT TO THE NEBRASKA SEXUAL PREDATOR RESIDENCY RESTRICTION ACT; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. AMENDMENT OF CODE OF ORDINANCES. The Code of Ordinances of the City of La Vista, Nebraska, be and hereby is amended by adding a new Chapter to be numbered Chapter 135, which shall be as follows:

CHAPTER 135: SEXUAL PREDATOR RESIDENCY RESTRICTIONS

SECTION 135.01 FINDINGS AND INTENT.

A. The Nebraska Legislature has found that certain sex offenders who have committed offenses against children present a high risk to commit repeat offenses against children, has recognized the interest and authority of cities to restrict such persons' place of residency, and has defined statewide parameters for such restrictions in the Nebraska Sexual Predator Residency Restriction Act.

B. Repeat sex offenders who prey on children are sexual perpetrators who present an extreme threat to public safety. Where there is a high risk to repeat such acts, such persons are extremely likely to pose a great threat to children. The cost of sex offender victimization to society is very high.

C. It is the intent of Chapter 135 to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City, and particularly its children, by creating certain areas in and around places where children regularly congregate where certain sexual predators cannot reside.

SECTION 135.02 DEFINITIONS.

The following words, terms and phrases, when used in Chapter 135 shall have the meaning ascribed to them in this Section 135.02, except where the context clearly indicates a different meaning:

A. "Sex offender" means an individual who has been convicted of a crime listed in Section 29-4003 of the Nebraska Statutes and who is required to register as a sex offender pursuant to the Nebraska Sex Offender Registration Act.

B. "Sexual predator" means an individual who is required to register under the Nebraska Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under Nebraska Statutes, Section 29-4013, and who has victimized a person eighteen years of age or younger.

C. "Reside" means to have one's residence.

D. "Residence" means a place at which a person has established his or her home, where he or she is habitually present, and to which when he or she departs he or she intends to return. A residence may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, where a person regularly sleeps, receives mail, or identifies as a residence on a driver's license, voter or vehicle registration, or other documents.

E. "School" means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed by Chapter 79 of the Nebraska Statutes.

F. "Nebraska Statutes" means Nebraska Revised Statutes, as amended by Legislative Bill 1199 (2006) or otherwise from time to time.

SECTION 135.03 SEXUAL PREDATOR RESIDENCY RESTRICTIONS, PENALTIES, AND EXCEPTIONS.

A. Prohibited location of residence. It is unlawful for any person who is a sexual predator to reside within 500 feet of a school.

ORDINANCE RECORD

NO. 72 B—REDFIELD & COMPANY INC., OMAHA

B. Measurement of distance. For purposes of Subparagraph "A", the distance between a residence and school shall be measured by following a straight line between the outer property lines of the school and residence at their nearest point.

C. Penalties. A person who violates this Section shall be punished as provided in Section 10.99 of the La Vista Municipal Code.

D. Exceptions. A person who is a sexual predator and residing at a residence within 500 feet of a school does not commit a violation of this Section if any of the following apply:

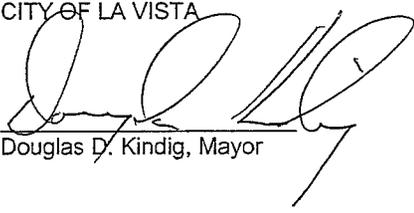
1. Said residence in which the person resides is a prison or a correctional or treatment facility operated by the State of Nebraska or a political subdivision of the State.
2. The person established said residence in which the person resides prior to the effective date of Chapter 135 and has not moved from that residence.
3. The school that is within 500 feet of the person's residence was established after the person's initial date of residence at that location.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unenforceable or invalid, such unconstitutionality, unenforceability or invalidity shall not affect the constitutionality, enforceability or validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that they would have passed this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, unenforceable or invalid.

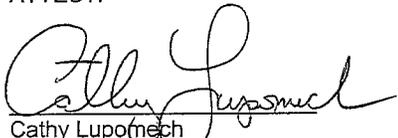
SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect July 15, 2006, subject to its passage, approval and publication as required by law.

PASSED AND APPROVED THIS 16TH DAY OF MAY 2006.

CITY OF LA VISTA


Douglas D. Kindig, Mayor

ATTEST:


Cathy Luponech
Deputy City Clerk

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