

ORDINANCE

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF EXETER,
LUZERNE COUNTY, PENNSYLVANIA, ESTABLISHING
SEX OFFENDER RESIDENCY RESTRICTIONS
AND PENALTIES FOR VIOLATIONS

WHEREAS, the Pennsylvania State Legislature adopted requirements for the registration of sexual offenders (commonly known as Megan's Law II), and is set forth at 42 Pa.C.S.A., beginning at Section 9791;

WHEREAS, Megan's Law II, as stated previously, requires that persons convicted of various offenses, and persons adjudicated a sexually violent predator, must register with the Pennsylvania State Police for periods not less than ten (10) years, which registration procedure is set forth in the Statute;

WHEREAS, Megan's Law II does not contain any restrictions with respect to where persons convicted of the crimes subject to registration or persons adjudicated sexually violent offenders may reside;

WHEREAS, the Council of the Borough of Exeter finds that the danger of recidivism posed by persons convicted to the crimes identified in Megan's Law II and persons adjudicated as sexually violent predators is of paramount concern to the Borough of Exeter;

WHEREAS, the Council of the Borough of Exeter finds that persons who have committed the violations referenced in Megan's Law II, or who have been adjudicated as sexually violent predators, have a reduced expectation of privacy and furthermore, that residency restrictions for such persons provide additional protection for children and places where children congregate; and

NOW, THEREFORE, be it hereby ENACTED and ORDAINED as follows:

DEFINITIONS:

A. CHILD CARE FACILITY. A licensed day care center, child care facility or any other child care service facility exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania.

B. COMMON OPEN SPACE. The area of land and/or water restricted from future development for the purpose of protecting natural features or for providing recreational opportunities for residents of the Borough of Exeter, which said Open

Space is regulated, maintained and/or owned by the Borough of Exeter.

C. **COMMUNITY CENTER.** A building and related facility used for educational, social, cultural, or recreational activities.

D. **PERMANENT RESIDENCE.** A place where a person lives, abides, lodges, or resides for fourteen (14) or more consecutive days.

E. **PUBLIC PARK OR RECREATIONAL FACILITY.** Any recreational facility, playground or park, owned or operated by the Borough of Exeter or any other governmental agency, including, but not limited to, Wyoming Area School District, the County of Luzerne or the Commonwealth of Pennsylvania.

F. **SCHOOL.** Shall mean any public or private which provides education services to a minor.

G. **SEX OFFENDER.** Shall mean any person, over the age of eighteen (18) years, who has been convicted against a minor identified in Section 9795.1 which includes, but not limited to, kidnapping, luring a child into a motor vehicle, institutional sexual assault, indecent assault, incest, prostitution, receiving sexual materials, sexual abuse of children, unlawful contact with minors, sexual exploitation of children, rape, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault, and individuals convicted of any attempt to commit any of the offenses enumerated herein.

H. **TEMPORARY RESIDENCE.** A place where a person lives, abides, lodges, or resides for a period of less than fourteen (14) days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's permanent residence.

2. **RESIDENCY RESTRICTION/PROHIBITION:**

I. It shall be unlawful for any sex offender to establish a permanent or temporary residence within 1,500 feet of any school, child care facility, common open space, community center, public park or recreational facility.

J. For the purpose 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 of the sex offender to the nearest outer property line of a school, child care facility, common open space, community center, public park or recreational facility.

3. **NOTICE TO MOVE:**

Any sex offender who resides on a permanent or temporary basis within 1,500 feet of any school, child care facility, common open space, community center, public park or recreational facility shall, within forty-five (45) days of receipt of written notice of the sex offender's non-compliance with this Ordinance, shall move from said location, but said location may not be within 1,500 feet of any school, child care facility, common open space, community center, public park or recreational facilities. Furthermore, it shall be a violation each day that a sex offender shall move from one (1) location in the Borough of Exeter to another that is within 1,500 feet of any school, child care facility, common open space, community center, public park or recreational facilities.

4. **EXCEPTIONS:**

This Ordinance shall not apply to any person who established residence prior to the date of this Ordinance, and it shall not apply if the school, child care facility, common open space, community center, public park or recreational facilities within 1,500 feet of the sex offender's permanent residence. The provision of this Ordinance shall not be applicable to persons incarcerated in any facility owned, maintained and/or operated by the County of Luzerne, the Commonwealth of Pennsylvania or the United States.

5. **PENALTIES:**

Any person who violates the provisions of this Ordinance shall, upon conviction, before a District Judge, be sentenced to a term of imprisonment up to ninety (90) days and shall be fined not more than One Thousand (\$1,000.00) Dollars for each violation, plus the costs of prosecution and reasonable attorney's fees.

6. **ENFORCEMENT:**

This Ordinance will be fully enforced by local law enforcement. More specifically, the Exeter Borough Police Department will have jurisdiction to enforce this Ordinance with any and all other law enforcement agencies.

7. **INCLUSION IN CODE:**

It is the intent of the Council of the Borough of Exeter that the provisions of this Ordinance shall become and be made a part of the Code or Ordinances of Exeter Borough and the sections of the Ordinance may be renumbered or relettered and word "ordinance" may be changed to "section" or "article" or such other appropriate word or phrase in order to accomplish the intention of the Exeter Borough Council.

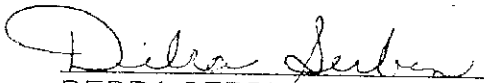
8. SEVERABILITY:

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision hereof shall be determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not impair or affect any remaining provision of the Ordinance, it being the intention of the Council of the Borough of Exeter that it would have adopted the Ordinance even if the offending language had not been included.

This Ordinance shall take effect immediately upon adoption.

ORDAINED AND ENACTED by the BOROUGH COUNCIL OF THE BOROUGH OF EXETER, this 6 day of February, 2007⁰³

ATTEST:


DEBRA SERBIN
SECRETARY/TREASURER


RICHARD MURAWSKI
CHAIRMAN OF COUNCIL

APPROVED THIS 6 DAY OF February, 2007⁰³

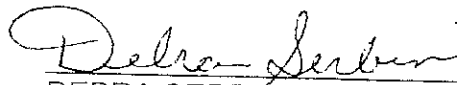

MAYOR

CERTIFICATION

I, DEBRA SERBIN, Secretary of the Borough of EXETER, hereby certify that the foregoing is a true and correct copy of a Ordinance duly adopted by the majority vote of the Borough Council of the Borough of Exeter at a meeting duly held on the 6 day of February, 200~~7~~⁰⁵ and that the minutes of said meeting show how each member voted having being duly recorded in the official minutes of the Borough of Exeter.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6 day of February, 200~~7~~⁰⁵

(Seal)


DEBRA SERBIN, SECRETARY
BOROUGH OF EXETER