

TOWNSHIP OF JACKSON

ORDINANCE NO. 159

AN ORDINANCE OF THE TOWNSHIP OF JACKSON, CAMBRIA COUNTY, PENNSYLVANIA, ESTABLISHING RESIDENTIAL RESTRICTIONS FOR REGISTERED ADULT SEXUAL VIOLENT OFFENDERS WITHIN THE TOWNSHIP, PROVIDING FOR PENALTIES FOR VIOLATIONS OF SUCH RESIDENTIAL RESTRICTIONS AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Commonwealth of Pennsylvania has adopted certain requirements for the registration of adult sexual violent offenders after conviction (commonly known as Megan's Law II) as more fully set forth in 42 Pa C.S.A. §9791, et. seq.; and

WHEREAS, the registration of such offenders provides for certain notification and information about sexually violent predators and other certain offenders to the public in order to provide community awareness of such offenders within the community; and

WHEREAS, these offenders pose a high risk of engaging in further offenses after incarceration and release into the community which affects the general safety, welfare and best interest of the public; and

WHEREAS, the legislature of the Commonwealth of Pennsylvania has determined that such sexually violent predators and certain other offenders have a reduced expectation of privacy because of the public's interest in public safety; and

WHEREAS, the Commonwealth of Pennsylvania has no laws which adequately prohibit or restrict convicted such violent sexual predators and other certain offenders from residing or living near areas where children or other persons at risk from sexually violent predators regularly meet and congregate; and

WHEREAS, the Board of Supervisors of the Township of Jackson believe that it is in the best interests of the Township and its residents to adopt additional regulations regarding convicted sexual offenders, so as to protect the health, safety and welfare of the Township, its residents, and especially the children of the municipality.

NOW THEREFORE, BE IT ORDAINED AND ENACTED AS FOLLOWS:

SECTION 1 – DEFINITIONS

a. Child Care Facility: a licensed day care center; licensed child care facility or any other child care services facility exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania.

b. Open Space: the area of land or water available and accessible for use by the public and residents of the Township which is restricted from future development for the purpose of protecting natural features or for providing recreational opportunities for the residents of the Township. Open space generally includes such land or area of land that is regulated, maintained or owned by the Township, and may include steep slopes, floodplains and other significant features to be preserved.

c. Community Center: any building and/or related facilities used for educational, social, cultural or recreational activities.

d. Public Park or Recreational Facility: any land, or tract of land, or facility used for passive or active recreation, including any playground, park, skate parks, athletic fields, and any other facility owned or operated by the Township or any other governmental agency, including Cambria County or the Commonwealth of Pennsylvania, also including any and all fields regularly used by children for sporting contests including but not limited to Little League Baseball, Football, Soccer or Basketball State Game Lands or State Forest.

e. Senior Care Facility: A licensed senior care facility, nursing home, or long-term care facility whose residents are senior citizens. For purposes of this ordinance, the term shall also include facilities for the care of disabled, handicapped or incapacitated person or persons.

f. School: any educational building or facility that provides educational services to a minor child, as defined by the laws of the Commonwealth of Pennsylvania, including any public or private facility, or building or residence that provides home schooling. Schools also include bus stops approved by the local public school district.

g. Sex Offender: any person, over the age of eighteen years, who has been convicted or found guilty of any sexual offense or crimes as defined in 42 Pa C.S.A. §9795.1, including but not limited to, kidnapping where the victim is a minor, institutional sexual assault, indecent assault, incest, prostitution and related offenses, sexual abuse of a child, unlawful contact with a minor, sexual exploitation of a minor, rape, involuntary deviate sexual intercourse, sexual assault, and aggravated indecent assault. Sex offender shall also include any individuals convicted or found guilty of any attempt to commit the offenses as enumerated herein.

h. Township: the Township of Jackson, including its residents and all land within its territorial boundaries.

SECTION 2 - SEXUAL OFFENDER RESIDENCY RESTRICTIONS

a. It shall be unlawful for any sex offender or other person over the age of eighteen years who has been convicted of a predicate offense and is required to

register his or her residence pursuant to 42 Pa C.S.A. §9791, et.seq., or who has been convicted of a violation which requires registration in another jurisdiction, to reside, lodge, abide or live within 2,500 feet of any school, child care facility, senior care facility, open space, community center, public park or recreational facility in the Township.

b. For the purpose of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence or lodging of the sex offender to the nearest outer property line of the school, child care facility, senior care facility, open space, community center, public park or recreational facility.

c. Such person who resides or lives within 2,500 feet of any school, child care facility, senior care facility, open space, community center, public park or recreational facility in the Township shall have sixty (60) days from receipt of written notice of the prohibition set forth herein to move. Failure to move to a location which is in compliance with this section within that time period shall constitute a violation of this chapter.

SECTION 3 – EXCEPTIONS TO RESIDENCY RESTRICTIONS

a. This Ordinance shall not apply to any person or sex offender who has established a residence prior to the date of adoption of this Ordinance, and shall not apply if the school, child care facility, open space, community center, public park or recreational facility within 2,500 feet of the sex offender's residence or lodging was established subsequent to the establishment of the sex offender's residence or lodging. The provisions of this Section 3 shall not apply to any person or sex offender who has established a residence or lodging, and then relocates to a different residence or lodging within the Township after the adoption of this Ordinance.

b. A sex offender, subject to residency registration and the restrictions imposed by this ordinance may request a variance from the Board of Supervisors. No such variance shall be granted by the Supervisors without first holding a public hearing. The public hearing shall be advertised one time in a newspaper of general circulation in the township no more than 30 days, nor less than seven days prior to the date of the hearing. The aggrieved person may be represented by counsel at the hearing. Procedures at the hearing shall be governed by the local public agency law.

SECTION 4 – PENALTIES

Any violation of this Ordinance shall be punishable by imprisonment for a term not exceeding ninety (90) days and a fine not exceeding \$1,000.00 for each violation, in addition to the costs of prosecution and attorney's fees.

SECTION 5 – ENFORCEMENT

All agencies and authorities within the Township, including but not limited to the Jackson Township Police Department, have full authority to enforce this Ordinance, and impose such fines and other penalties, through due process of law as necessary and appropriate.

SECTION 6 – SEVERABILITY

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court of competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance.

SECTION 7 – EFFECTIVE DATE

This Ordinance shall become effective five days following approval adopted at a regularly scheduled meeting of the Jackson Township Supervisors this 12TH day of March, 2009, following advertisement and public notice as required by law.

TOWNSHIP OF JACKSON

By: *Gene Baker*
Supervisor

By: *David J. Bracken*
Supervisor

By: *John A. [Signature]*
Supervisor

ATTEST:

David M. [Signature]
Secretary

(Seal)