

**BUFFALO TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 52

**ESTABLISHING A SEX OFFENDER RESIDENCY RESTRICTIONS AND
PENALTIES FOR VIOLATIONS THEREOF.**

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

WHEREAS, Megan's Law II requires 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 was set forth in the statute; and

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

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

WHEREAS, the Township Supervisors find that persons who have committed the violations referenced in Megan's Law II, or have been adjudicated as sexually violent predator, have a reduced expectation of privacy and furthermore, that residency restrictions for such persons provides additional protection for children and places where children congregate; and

WHEREAS, the Township of Buffalo, pursuant to the Township Code, _____ § _____ has the general power to make and adopt all such ordinances, by-laws, rules and regulations not inconsistent with or restrained by the Constitution and laws of the Commonwealth, and as may be expedient or necessary for the proper management, care and control of the Township and the safety and welfare of the Township; and

WHEREAS, the Township Supervisors possess powers pursuant to the Township Code to make regulations necessary for the health, safety, morals and general welfare of the Township; and

WHEREAS, the Township Supervisors have reviewed the findings of the Pennsylvania Legislature when it adopted Megan's Law II, has taken into consideration the concerns of the Pennsylvania State Sexual Offender's Assessment Board, has studied the relative effectiveness of sexual offender residency requirements enacted by other municipalities throughout the country, and is aware and has been informed of the Alabama Legislature's adoption of the Community Notification Act, and the Iowa's Legislature's adoption of Section 692 A.2a of the Iowa Code, all of which relate in part to restrictions imposed upon sexual offenders with respect to residency.''

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED as follows:

1. **Definitions**

A. **Child Care Facility** - A licensed day care center, child care facility or any other child care service facility exempt from licensing pursuant of 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 the residents of Buffalo Township.

C. **Community Center** - A building and related facility used for educational, social, cultural or recreational activities. A Community Center does not exclude a place of worship where organized activities, other than actual worship services, for persons under the age of 18 are conducted.

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 Buffalo Township.

F. **School** - Shall mean any public or private institution which provides education services or classroom instruction to a minor.

G. Sex Offender - shall mean any person, over the age of eighteen (18) years of age, who has been convicted of a crime identified in 42 Pa. C.S.A. Section 9795.1 which includes, but is not limited to, kidnapping, luring a child into a motor vehicle, institution of 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 therein.

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

A. 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 facilities;

B. 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 facilities.

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, move from said location to a new location, but said location may not be within 1,500 feet of any school, child care facility, common open space, community center, park or recreational facilities. Furthermore, it shall be a separate violation for each day that a sexual offender shall violate this section and/or shall move from one location in the Township to another that is within 1,500 feet of any school, child care facility, common open space, community center, public park or recreational facility.

4. Appeal of Notice to Move

A. Any person aggrieved by the Township of Buffalo's issuance of a Notice to Move to a sex offender shall have the right to file an appeal with Township Supervisors within thirty (30) days of the sex offender's receipt of the Notice to Move. Upon receipt of an appeal of the Notice to Move, Township Supervisors shall schedule and conduct a hearing at which Township Supervisors shall consider the following factors:

- (i) Whether the Notice to Move was properly issued pursuant to Township Ordinance;
- (ii) Any evidence the aggrieved party wishes to offer concerning the adequacy of existing restrictions placed upon the sexual offender's residency, including but not limited to parole and or probationary restrictions; and
- (iii) The length of the sexual offender's reporting requirement under Megan's Law II, including the remaining period of time which the Offender would be subject to Megan's Law reporting requirements.

B. Additional, the Supervisors may consider:

- (i) The nature of the offense or offenses which the sexual offender committed and which resulted in his or her registry requirements under Megan's Law II;
- (ii) The proximity of the sexual offender's residence to that of the victim of any of the offenses;
- (iii) The age, capacity and or relationship of the victim to the offender; and
- (iv) Any other factors relevant to whether the sexual offender will pose a risk to the health, safety and welfare of the community of Buffalo Township, including but not limited to a risk of engaging in further Offenses prohibited by the Pennsylvania Crimes Code.

Township Supervisors after hearing all evidence at the appeal hearing must weigh the evidence and determine whether there is clear and convincing evidence the Notice to Move was properly issued for the sexual offender, and that evidence outweighs by a preponderance any mitigating evidence concerning the sexual offender's violation of this Ordinance.

5. **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 was located within 1,500 feet of the sex offender's permanent residence after the offender established that residence. The provisions of this Ordinance shall not be applicable to persons incarcerated in any facility owned, maintained, and/or operated by the County of Washington, the Commonwealth of Pennsylvania or the United States Federal Government.

6. **Penalties**

Any person who violates the provision of this Ordinance shall, upon conviction, before a Magisterial 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.

7. **Enforcement**

The Buffalo Township Code Enforcement Officers and/or the State Police shall be charged with the enforcement of this Ordinance.

8. **Publication**

The Township Administration is herein directed by the Township Supervisors to have prepared and placed at Buffalo Township Municipal Building during regular business hours a map of Buffalo Township depicting the area where sex offenders are restricted from residing on a permanent or temporary basis.

9. **Inclusion in Code**

It is the intent of the Township Supervisors that the provisions of this Ordinance shall become and be made a part of the Code of Buffalo Township and the sections of this Ordinance may be re-numbered or re-lettered 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 Township Supervisors.

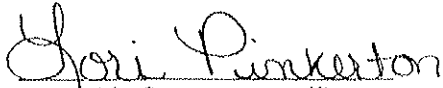
10. Severability

The provisions of this Ordinance are severable. If any section, clauses, sentence, part or provisions 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 provisions of the Ordinance, it being the intention of the Township Supervisors that it would have adopted this Ordinance even if the offending language had not been included.

11. Effective Date

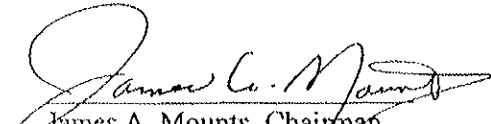
This Ordinance has been examined, approved and shall be effective the 1st day of APRIL, 2009.


ATTEST:

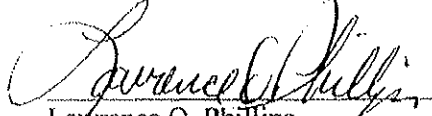

Township Secretary (to all)

(TOWNSHIP SEAL)

BUFFALO TOWNSHIP SUPERVISORS

By: 
James A. Mounts, Chairman

By: 
Timothy P. Doman

By: 
Lawrence O. Phillips

EXAMINED AND APPROVED this 1st day of APRIL, 2009.