

ORDINANCE NO. 322

AN ORDINANCE OF THE BOROUGH OF MILESBERG, CENTRE 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 know as Megan’s Law II), and is set forth at 42 Pa.C.S.A., beginning at § 9791;

**WHEREAS**, Megan’s Law II, as noted previously, requires that persons convicted of various offenses, and persons adjudicated a sexually violent predator, must register with the Pennsylvania State Police.

**WHEREAS**, the Borough Council 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 Borough of Milesburg;

**WHEREAS**, the Borough Council finds that residency restrictions for persons who have committed the crimes enumerated in the Megan’s Law II or who have been adjudicated as sexually violent predators provides additional protection for children at places where children congregate; and

**WHEREAS**, the Borough Council has reviewed and concurs with the findings of the Pennsylvania legislature when it adopted Megan’s Law II.

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

**SECTION ONE: Definitions.**

**CHILD CARE FACILITY** - a licensed day-care center or facility or any other child-care services facility exempted from licensing pursuant to the laws of the Commonwealth of Pennsylvania.

**COMMUNITY CENTER** - a building and related facilities used for educational, social, cultural, or recreational activities.

PERMANENT RESIDENCE - a place where a person lives, abides, lodges, or resides with the intent to so live, abide, lodge, or reside for fourteen (14) or more consecutive days.

PUBLIC PARK OR RECREATIONAL FACILITY - any recreational facility, playground, park, or other recreational activity owned or operated by Milesburg Borough or any other governmental agency.

SCHOOL - any public or private educational institution providing educational services to a minor.

SEX OFFENDER - any person, over the age of eighteen (18) years of age, who has been convicted of any crime against a minor identified in Section 9795.1 of the Pennsylvania Crimes Code which includes, but is 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 or in Section 9795.1 of Pennsylvania Crimes Code.

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 in which is not the person's permanent residence.

**SECTION TWO:     Residency Restriction and Prohibition.**

- A.     It shall be unlawful for any sex offender to establish a permanent or temporary residence within one thousand five hundred feet (1,500) feet of any school, child-care facility, community center, public park, or recreational facility.
  
- B.     For the purposes of determining the minimum distance separation, the requirements shall be measured by following a straight line from the outer property line over the permanent residence or temporary residence of the sex offender to the nearest outer property line of a school, child-care facility, community center, public park, or recreational facility.

**SECTION THREE:         Notice to Move.**

Any sex offender who resides on a permanent or temporary basis within one thousand five hundred (1,500) feet of any school, child-care facility, community center, public park or recreational facility shall, within forty-five (45) days of receipt of written notice from Milesburg Borough or its designee or the Code Enforcement Officer of the sex offender's non-compliance with this Ordinance, move from said location to a new location, but said new location may not be within one thousand five hundred (1,500) feet of any school, child-care facility, community center, public park or recreational facility within the Borough. Each day beyond the forty-five (45) days that the sex offender continues to reside within one thousand five hundred (1,500) feet of a school, child-care

facility, community center, public park or recreational facility shall constitute a separate violation. Furthermore, each day that a sex offender shall move from one location in the Borough to another that is within one thousand five hundred (1,500) feet of any school, child-care facility, community center, public park or recreational facility shall constitute a separate violation.

**SECTION FOUR: Violations and 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 \$1,000.00 for each violation, plus the costs of prosecution and reasonable attorney's fees.

**SECTION FIVE: Publication.**

The Borough Secretary is herein directed by Borough Council to prepare and place in the offices of the Borough a map of the Borough depicting the area where sex offenders are restricted from residing on a permanent or temporary basis.

**SECTION SIX: 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 Borough Council that it would have adopted the Ordinance even if the offending language had not been included.

ADOPTED AND ENACTED by the Council of Milesburg Borough, effective this 13<sup>th</sup>  
day of October, 2008.

BOROUGH OF MILESBURG:

Paul Bartley  
Paul Bartley, President

Phyllis Y. Jodon  
Phyllis Y. Jodon, Mayor

ATTEST:

Paula J. Hall  
Paula J. Hall, Secretary-Treasurer