

ORDINANCE NO. 04-21
OF THE CITY OF AUBURN, NEMAHA COUNTY, NEBRASKA

AN ORDINANCE TO ADOPT CHAPTER 135: SEXUAL OFFENDER RESIDENCY RESTRICTION WITHIN TITLE XIII: GENERAL OFFENSES TO THE AUBURN CITY CODE OF ORDINANCES; TO REPEAL ALL ORDINANCES AND RESOLUTIONS OR PARTS THEREOF IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF AUBURN, NEBRASKA;

SECTION I. Section 135 within Title XIII of the City of Auburn, Nebraska, Code of Ordinances shall be adopted to read as follows:

§ 135.01 Findings and Intent.

- (A) The Nebraska Legislature, pursuant to Neb. Rev. Stat. § 29-4002, has found that certain sex offenders present a high risk to commit repeat offenses.
- (B) Repeat sex offenders who use physical violence and prey on children are sexual perpetrators who present an extreme threat to public safety. Certain sex offenders are extremely likely to use physical violence or to repeat their offenses. These offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, extremely exorbitant.
- (C) It is intent of this chapter to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sex offenders cannot reside.

§ 135.02 Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CHILD-CARE FACILITY

A place with a license issued under the Nebraska Child-Case Licensing Act, Sections 71-1908 to 71-1923, as currently existing or hereafter amended. It shall include licensed places both inside and outside of the corporate limits of the City.

RESIDENCE

A place where a person regularly sleeps, where a person has established his or her home, and 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. Temporarily domiciled means a place at which a person actually lives or stays on a temporary basis, even though he or she may plan to return to his or her permanent address or to another temporary address. For purposes of this chapter, a temporary domicile means any place at which the person actually lives or stays for a period of at least five working days. Residency may be shown by, among other evidence, receipt of mail at the premises or identification of the premises as a residence on a driver's license, vehicle registration or other document.

SCHOOL

A public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Neb. Rev. Stat. § 79 et seq.

SEX OFFENDER

Anyone defined in the Sex Offender Registration Act (Sections 29-4001 to 29-4013, inclusive, Neb. Rev. Stat.) or any amendments thereto, or any person convicted under the law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have required registration under the Nebraska Sex Offender Registration Act if the conviction occurred in Nebraska.

SEXUAL PREDATOR

Any individual who is required to register under the Nebraska Sex Offender Registration Act, or any person required to register under a similar law of another state, who has a high risk of recidivism as determined by the Nebraska State Patrol under Neb. Rev. Stat. § 29-4013, and who has victimized a person 18 years of age or younger.

§ 135.03. Sex offender residence prohibitions; penalties and exceptions.

- (A) Prohibited location of residence. It is unlawful for any person who is subject to the Nebraska Sex Offender Registration Act, classified as a sexual predator as herein defined, or similar requirement or law of any other state, to reside within 500 feet of any child-care facility or school as defined herein.
- (B) Measurement of distance. For purposes 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 to the nearest outer boundary line of a public or nonpublic elementary or secondary school or a child-care facility.
- (C) Penalties. A person who violates this section shall be punished to a fine not exceeding \$500 or six months in jail, or both.
- (D) Exceptions. A person residing within 500 feet of any child-care facility or school does not commit a violation of this section if any of the following apply:
 - (1) Resides within a prison or a correctional or treatment facility operated by the state or a political subdivision;
 - (2) Established a residence before July 1, 2006, and had not moved from that residence;
 - (3) Established a residence after July 1, 2006, and the school or child-care facility triggering the restriction was established after the initial date of the sexual predator's residence at the location; or
 - (4) The person who becomes in violation of this chapter because of annexation into the City.

§ 135.04. Ordinance copies provided.

Any person subject to the Nebraska Sex Offender Registration Act shall, upon making request to the Law Enforcement for the City.

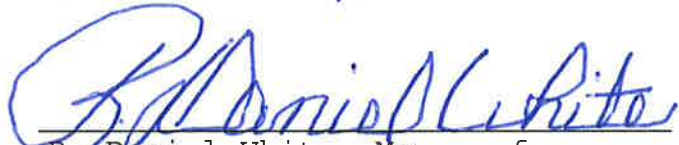
§ 135.05. Severability.

If any provision of this chapter or its application to any person or circumstances shall be held invalid, the remainder of the chapter, or the application of the provisions to other persons or circumstances, shall not be affected.


SECTION II. That all Ordinances and Resolutions or parts thereof in conflict herewith be and the same are hereby repealed.

SECTION III. That this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

Passed and Approved this 12th day of April, 2021.


R. Daniel White, Mayor of
City of Auburn, Nebraska

ATTEST:


J. A. Skett, Municipal Clerk
City of Auburn, Nebraska

Approved as to Form & Legality:



City Attorney