

ORDINANCE NO. _____

1 AN ORDINANCE amending Section 9.16.250 of the Lincoln Municipal Code
 2 relating to Residency Restrictions for Sexual Predators to amend the definition of sexual predator
 3 to conform with state statute; repealing Section 9.16.250 of the Lincoln Municipal Code as hitherto
 4 existing; and establishing an effective date of January 1, 2010.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That Section 9.16.250 of the Lincoln Municipal Code be amended to read
 7 as follows:

8 **9.16.250 Residency Restrictions for Sexual Predators.**

9 (a) Purpose. The Nebraska Legislature finds that certain sex offenders present a high risk
 10 of recidivism and has enabled municipalities to restrict such person's place of residence as provided
 11 in the Sexual Predator Residency Restriction Act. It is the intent and purpose of this section to serve
 12 the City's compelling interest to protect the health, safety and welfare of the children of the City of
 13 Lincoln, Nebraska from the risk that sexual predators may reoffend where children congregate on
 14 a regular concentrated basis by prohibiting sexual predators from establishing a residence around
 15 schools.

16 (b) Definitions. The following words, terms and phrases, when used in this section, shall
 17 have the meanings prescribed to them, except where the context clearly indicates a different
 18 meaning:

19 **Sex Offender** shall mean an individual who has been convicted of a crime listed in
 20 *Neb. Rev. Stat.* §29-4003 and who is required to register as a sex offender pursuant to the State of
 21 Nebraska's Sex Offender Registration Act.

22 **Sexual Predator** shall mean an individual ~~who is required to register under the State~~
 23 ~~of Nebraska's Sex Offender Registration Act, who has a high risk of recidivism as determined by~~
 24 ~~the Nebraska State Patrol under *Neb. Rev. Stat.* §29-4013 and who has victimized a person eighteen~~
 25 ~~years of age or younger as defined in *Neb. Rev. Stat.* § 29-4016.~~

1 **Reside or residence** shall mean a place where the sexual predator abides, dwells,
2 lives or sleeps, which may include more than one location and may be mobile or transitory.

3 **School** shall mean a public, private, denominational or parochial school which meets
4 the requirements for accreditation or approval prescribed by the State of Nebraska, pursuant to
5 Nebraska Revised Statute Chapter 79, and which has or includes any or all grades kindergarten
6 through 12th grade.

7 (c) Residency Restrictions. It shall be unlawful for a sexual predator to reside within 500
8 feet of the real property comprising a school.

9 (d) Measurement of Distance. For purposes of determining the minimum distance
10 separation, the requirement shall be measured by following a straight line from the outer property
11 line of the real property comprising a residence to the nearest outer property line of the real property
12 comprising the school.

13 (e) Penalty for Violation. Any person who shall violate any provision of this section
14 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment
15 in the county jail for a period not to exceed six months or by a fine of not less than \$250.00 nor more
16 than \$500.00 or both such fine and imprisonment.

17 (f) Exceptions. A sexual predator residing within 500 feet of the real property
18 comprising a school does not commit a violation of this ordinance if any of the following apply:

19 (1) The sexual predator resides within a prison or a correctional or treatment
20 facility operated by the state or a political subdivision.

21 (2) The sexual predator has established a residence before July 1, 2006, and has
22 not moved from that residence.

23 (3) The sexual predator has established a residence after July 1, 2006, and the
24 school triggering the restriction was established after the initial date of the sexual predator's
25 residence at that location.

26 (g) This section does not preclude a sexual predator deemed to be handicapped or
27 disabled under the Fair Housing Act, Rehabilitation Act, or Americans with Disabilities Act from
28 pursuing requests for reasonable accommodations.

29 (h) If any provision of this section or its application to any person or circumstance shall
30 be held invalid, the remainder of the section or the application of the provisions to other persons or
31 circumstances shall not be affected.

1 Section 2. That Section 9.16.250 of the Lincoln Municipal Code as hitherto existing
2 be and the same is hereby repealed.

3 Section 3. That this ordinance shall take effect and be in force from and after January
4 1, 2010 and after passage and publication in one issue of a daily or weekly newspaper of general
5 circulation in the City, according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2009: _____ Mayor
