

ORDINANCE NO. 1339

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO, ENACTING RESIDENCY DISTANCE RESTRICTIONS UPON SEX OFFENDERS FROM DESIGNATED LOCATIONS WITHIN THE TOWN OF BERTHOUD

WHEREAS, in accordance with the 2023 Annual Report of Colorado Department of Corrections Lifetime Supervision of Sex Offenders the agency expressed concern that there is an increasing risk to the public as the number of sex offenders both incarcerated and in communities is rising while the number of approved treatment providers is decreasing; and

WHEREAS, the Department of Corrections Sex Offender Management Board's February 1, 2024, Treatment Solutions Work Group Report, notes that there are insufficient resources for treatment of convicted sex offenders due to the volume of admissions and staffing shortages which creates significant community and public safety concerns and given that crimes of sex offenders often involve sexual assault of children there is a heightened community safety interest; and

WHEREAS, the Board of Trustees is concerned that the issues brought forward by the State agencies and the increasing number of sex offenders present a risk to the public, particularly the youth in the community; and

WHEREAS, to reduce such risk the Board of Trustees desires to impose residency restrictions upon sex offenders' proximity to locations frequented by the Town's youth.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. Chapter 17 of the Berthoud Municipal Code is hereby amended to include Section 23 entitled "Prohibited Residency of Sex Offenders" to read as follows;

17.23-1: Findings and Intent.

- A. The Town Board hereby finds that sexual predators and the specified sex offenders who use physical violence or who prey on children present an extreme threat to the public safety. Sexual predators and the specified sex offenders have a high rate of recidivism, making the cost of sex offender victimization to society at large extremely high. Removing such offenders from regular proximity to places where children are located and limiting the frequency of contact is likely to reduce the risk of an offense.
- B. This Chapter is intended to serve the Town's compelling interest to promote, protect and improve the public health, safety and welfare by creating areas, around locations where children regularly congregate in concentrated numbers, where sexual predators and specified sexual offenders are prohibited from establishing temporary or permanent residence.

17.23-2: Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

- A. *Permanent Residence*: A place where a person abides, lodges, or resides for five (5) or more consecutive days.
- B. *Temporary Residence*: A place where a person abides, lodges, or resides for a period of five (5) or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a

place where a person routinely abides, lodges, or resides for a period of five (5) or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

17.23-3: Prohibitions.

- A. It shall be unlawful for:
 - i. Any person who has been found to be a sexually violent predator pursuant to C.R.S. Section 18-3-414.5; or
 - ii. Any person required to register under the Colorado Sex Offender Registration Act, C.R.S. Section 16-22-101, et seq. who has been:
 - a. Convicted of a felony for an offense requiring registration; or
 - b. Has multiple convictions for offenses requiring registration; or
 - c. Whose offense(s) requiring registration involved multiple victims to establish a permanent residence or temporary residence within one thousand feet (1,000') of any school, park, or playground or within one thousand feet (1,000') of any licensed day care center, recreation center or swimming pool (other than pools located at private, single-family residences), or any property located adjacent to any designated public or private school bus stop, , or recreational trail.
 - d. Persons otherwise subject to this Act who had established a residence which would be in violation of the distance requirements set forth in subsection (c) above on or before the effective date of the Ordinance from which this Section derives, are hereby exempted from the provisions set forth herein in relation to such residence.
- B. It is unlawful to let or rent any portion of any property, place, structure, trailer or other vehicle with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this Chapter.

17.23-4: Exceptions.

A person is not guilty of a violation of this Chapter if:

- A. The person established the permanent or temporary residence prior to the effective date of this Section; provided, however, that this exception shall not apply if the person committed the offense, for which registration under the Colorado Sex Offender Registration Act is required, after the effective date of this chapter;
- B. The person is placed in the residence pursuant to a State of Colorado foster care program; or
- C. The school, designated public or private school bus stop, licensed day care center, park, playground, swimming pool, recreational trail or recreation center was opened after the person established the permanent or temporary residence, and is not replacing an existing school, designated public or private school bus stop, licensed day care center, park, playground, swimming pool, recreational trail or recreation center.

17.23-5: Measurement.

- A. For purposes of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line or boundary of the property on which the school, designated public or private school bus stop, licensed day care center, park, playground, swimming pool, recreational trail or recreation center is located to the nearest point on the outer property line of the property on which the permanent or temporary residence of the sex offender is located. Geographic Information System (GIS) data regarding the locations shall be *prima facie* evidence of the actual distance.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Violations of this ordinance shall be punishable in accordance with Section 17.1-1 of the Municipal Code of the Town of Berthoud, Colorado.


Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, AND APPROVED this 28th day of May 2024.

TOWN OF BERTHOUD, COLORADO


William Karspeck, Mayor

ATTEST:


Christian R. Samora, Town Clerk

APPROVED AS TO FORM:


Erin Smith, Town Attorney

