

CITY OF EVANS, COLORADO

ORDINANCE NO. 752-21

**AN ORDINANCE TO PROTECT THE PUBLIC BY IMPOSING
PROHIBITED RESIDENCY OF SEX OFFENDERS**

WHEREAS, the City Council of the City of Evans, Colorado (the “City Council”), pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado (the “City”); and

WHEREAS, the City Council recognizes that sexual predators and specified sex offenders endanger society by exposing a particularly vulnerable population, children, to extreme harm.

WHEREAS, removing sexual predators and specified sex offenders from the regular proximity of places where children are located and limiting the frequency of contact between sexual predators and specified sex offenders and children will reduce the opportunity and risk for offenses against children to be committed; and

WHEREAS, this City Council hereby intends to adopt this new Chapter 9.29 to the Evans Municipal Code to serve the City’s compelling interests to promote, protect and improve the health, safety and welfare of the public by creating areas, around locations where children regularly gather in concentrated numbers, where sexual predators and specified sex offenders are prohibited from establishing either temporary or permanent residence while still recognizing the need for safe and adequate housing for those individuals who are released to the community by state authorities.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF EVANS, COLORADO AS FOLLOWS:**

Section 1. Chapter 9.29 of the Evans Municipal Code is hereby added to read in its entirety as follows:

Chapter 9.29 – Prohibited Residency of Sex Offenders

9.29.010 - Purpose.

- A. The city council finds that sexual predators and specified sex offenders who use physical violence and who prey on children pose an extreme threat to public safety. Sexual predators and specified sex offenders endanger society by exposing a particularly vulnerable population, children, to extreme harm. Removing sex offenders from the regular proximity of places where children are located and limiting the frequency of contact between sexual predators and specified sex offenders and children will reduce the opportunity and risk for offenses against children to be committed.

- B. This chapter is intended to serve the city’s compelling interests to promote, protect and improve the health, safety and welfare of the public by creating areas, around locations where children regularly gather in concentrated numbers, where sexual predators and specified sex offenders are prohibited from establishing either temporary or permanent residence while still recognizing the need for safe and adequate housing for those individuals who are released to the community by state authorities.

9.29.020 - 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:

Licensed Daycare or Child Care Facility means facilities that provide care for minor children and are located either in commercial buildings or licensed private residences.

Park means any public park, including playgrounds.

Permanent residence means a place where a person abides, lodges, or resides for five or more consecutive days.

Recreation center means a publicly owned recreation or sports center.

School means any public, private, parochial, charter or other school attended by students under the age of 18, except for home schools.

Sexual predator means any person aged 18 years or older who has been found to be a sexually violent predator pursuant to the applicable provisions of C.R.S. Title 18, as amended from time to time, related to a conviction where at least one victim was a minor under the age of 18 years.

Specified sex offender means any person aged 18 years or older who has been required to register under the Colorado Sex Offender Registration Act, C.R.S. Title 16, as amended from time to time, and:

- (1) Who has been convicted of a felony for an offense requiring registration where the victim was under the age of 18 years;
- (2) Who has multiple convictions for offenses requiring registration where at least one victim was under the age of 18 years; or
- (3) Whose offenses requiring registration involved multiple victims and at least one victim was under the age of 18 years.

Swimming pool means a publicly owned, water-filled structure used for the purpose of swimming or other water activities, including splash parks. The term “swimming

pool,” as used in this chapter, shall not include any water-filled structures which are not publicly owned.

Temporary residence means a place where a person abides, lodges, or resides for a period of five or more days in an aggregate 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 or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

9.29.030 - Prohibition.

- A. It shall be unlawful for a sexual predator or a specified sex offender to establish a permanent or temporary residence within 300 feet of any licensed daycare or childcare facility, school, park, recreational center, school bus stop, or swimming pool.
- B. It shall be unlawful to let or rent any portion of any property, room, place, structure, trailer or other vehicle to a sexual predator or specified sex offender with the knowledge that it will be used as a permanent or temporary residence in violation of this chapter.

9.29.040– Exceptions.

- A. A sexual predator or specified sex offender is not guilty of a violation of section 9.29.030 if:
 - (1) The sexual predator or specified sex offender had established the permanent or temporary residence prior to the effective date of the ordinance from which this chapter is derived; provided, however, that this exception shall not apply if the sexual predator or specified sex offender committed and was convicted of offenses identified in section 9.29.030 and for which registration under the Colorado Sex Offender Registration Act is required, after the effective date of the ordinance from which this chapter is derived;
 - (2) The sexual predator or specified sex offender is placed in the residence pursuant to a state-licensed foster care program; or
 - (3) The school, licensed daycare or childcare facility, park, school bus stop, swimming pool, or recreation center was opened or became operative after the sexual predator or specified sex offender established the permanent or temporary residence.
- B. A person who lets or rents any portion of any property, room, place, structure, trailer or other vehicle to a sexual predator or specified sex offender with the knowledge that it will be used as a permanent or temporary residence in violation of this chapter is not guilty of a violation of section 9.29.030 if:
 - (1) The person let or rented the property, room, place, structure, trailer or other

- vehicle to the sexual predator or specified sex offender prior to the effective date of this chapter;
- (2) The person lets or rents the property, room, place, structure, trailer or other vehicle to a sexual predator or specified sex offender pursuant to a state-licensed foster care program; or
 - (3) The person let or rented the property, room, place, structure, trailer or other vehicle to the sexual predator or specified sex offender prior to the opening or operation of any school, daycare or childcare facility, park, swimming pool, school bus stop, or recreation center.

9.29.050 – Measurement.

For the purposes of determining a minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the school, daycare or childcare facility, park, swimming pool, school bus stop, or recreational center is located to the nearest point on the outer property line of the property on which the permanent or temporary residence is located.

Section 2. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

Section 3. Severability. 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 City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance. Specifically, Section 9.16.010 is not repealed by this Ordinance.

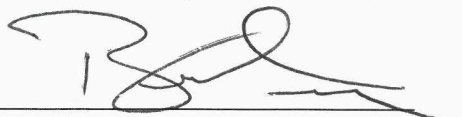
INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 2nd DAY OF NOVEMBER, 2021.

ATTEST:


Julie Kamka, City Clerk



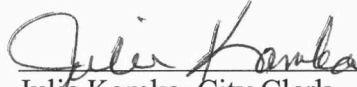
CITY OF EVANS, COLORADO

By: 
Brian Rudy, Mayor

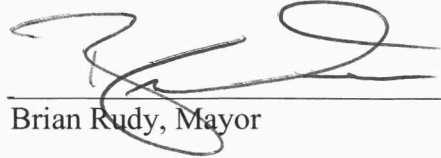
PASSED AND ADOPTED ON A SECOND READING THIS 16th DAY OF NOVEMBER, 2021.

ATTEST:

CITY OF EVANS, COLORADO


Julie Kamka, City Clerk





Brian Rudy, Mayor