

CITY OF GREELEY, COLORADO

ORDINANCE NO. 2 , 2014

**AN ORDINANCE OF THE CITY OF GREELEY REPEALING AND REENACTING
CHAPTER 10.40 OF THE CITY OF GREELEY MUNICIPAL CODE OF ORDINANCES
REGARDING THE PROHIBITED RESIDENCY OF SEX OFFENDERS**

WHEREAS, in February, 2009 the Greeley City Council passed ordinance 03-2009 which restricted the places where registered sex offenders could reside within the City of Greeley; and

WHEREAS, a review of Ordinance 03-2009 has revealed that the ordinance should be repealed and reenacted in order to more narrowly tailor the residency restrictions to registered sex offenders who have committed crimes against minor children; and

WHEREAS, the Greeley City Council has determined that children within the City constitute a vulnerable population due to their age and immaturity; and

WHEREAS, Colorado Statutes do not restrict where registered sex offenders may live and the Colorado legislature has declined the opportunity to enact any statute which restricts where registered sex offenders may live; and

WHEREAS, the Colorado Statutes require a registered sex offender to register his/her address with local police officials, and specifically state that local police officials are not required to accept a registration that does not comply with local residency restrictions; and

WHEREAS, the Colorado Sex Offender Management Board is responsible for the management of individuals who are required to register because of their conviction for sexually based offenses; and

WHEREAS, the Colorado Sex Offender Management Board has adopted Standards and Guidelines which govern the treatment and evaluation of sex offenders; and

WHEREAS, the Colorado Sex Offender Management Board has adopted no policies or guidelines which regulate the appropriate residency of sex offenders; and

WHEREAS, the Colorado Sex Offender Management Board has released a white paper which identifies stable housing options located near employment, treatment and support systems as a factor which relates to reduced recidivism rates among registered sex offenders; and

WHEREAS, the Greeley City Council recognizes the research conducted by the Colorado Sex Offender Management Board and understands the importance of ensuring access to appropriate housing options for convicted sex offenders within the community; and

WHEREAS, the Greeley City Council believes that it is important to balance the need for appropriate housing options for convicted sex offenders with the duty to provide secure and safe educational and recreational opportunities for the City's children; and

WHEREAS, restricting sex offenders who have previously committed crimes against children from living near locations where children congregate lessens the potential for the offender to come into contact with children who would not otherwise be exposed to contact with a convicted sex offender; and

WHEREAS, this Ordinance promotes and protects the public safety, health and welfare of the citizens of Greeley and

WHEREAS, it is in the best interests of the citizens of the City of Greeley that Ordinance 03-2009 be repealed and a new ordinance be enacted which narrowly tailors the residency restrictions to protect children.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO:

Section 1. Chapter 10.40 of the Greeley Municipal Code is hereby repealed.

Section 2. Chapter 10.40 of the Greeley Municipal Code as set forth on Exhibit "A" attached hereto and incorporated herein by this reference is hereby reenacted.

Section 3. This ordinance shall become effective five (5) days following its final publication, as provided by the Greeley City Charter.

DONE AND DATED THIS 4th DAY OF February, 2014.

ATTEST:

CITY OF GREELEY, COLORADO

Daisy D. Holder
City Clerk

Thomas E. Norton
Mayor

Chapter 10.40

Prohibited Residency of Sex Offenders

10.40.010 Findings and intent.

(a) 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) City Council further finds that the Colorado Sex Offender Management Board has identified restrictions on housing options for registered sex offenders as a factor which may contribute to increased recidivism among individuals who have been convicted of offenses requiring registration.

(c) 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.

10.40.020 Definitions.

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

Park means any public park, including playgrounds.

Permanent residence means a place where a person abides, lodges or resides for five (5) or more consecutive days.

Recreation center means a publicly owned recreation or sports center, including but not limited to the Downtown Recreation Center, the Greeley Ice Haus, the Greeley Family Fun Plex and the Rodarte Center.

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

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

Specified sex offender means any person age eighteen (18) or older who has been required to register under the Colorado Offender Registration Act, Title 16, C.R.S., 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; or
2. Who has multiple convictions for offenses requiring registration where at least one victim was under the age of 18; or
3. Whose offenses requiring registration involved multiple victims and at least one victim was under the age of 18.

Swimming pool means a publicly owned water-filled structure used for the purpose of swimming or other water activities, including splash parks. *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 (5) 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 (5) or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

10.40.030 Prohibition.

(a) It shall be unlawful for a sexual predator or a specified sex offender to establish a permanent or temporary residence within three hundred (300) feet of any school, park, recreational center 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.

10.40.040 Exceptions.

(a) A sexual predator or specified sex offender is not guilty of a violation of Section 10.40.030 above if:

(1) The sexual predator or specified sex offender had established the permanent or temporary residence prior to the effective date of this Chapter; 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 10.40.020 of this Chapter, and for which registration under the Colorado Sex Offender Registration Act is required, after the effective date of this Chapter;

(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, park, swimming pool or recreation center was opened 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 10.40.030 above 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 of any school, park, swimming pool or recreation center.

10.40.050 Measurement.

For 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, park, swimming pool 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.

10.40.060 Penalties.

Violations of this Chapter are subject to any and all penalties as provided in Chapter 1.32 of this Code.