

**City of Shamokin
Ordinance 06-07**

SEX OFFENDER RESIDENCY PROHIBITION

WHEREAS, the Pennsylvania Legislature enacted legislation requiring the registration of sexual offenders, now referred to as Megan's Law II by the Act of May 10, 2000, P.L. 74, No. 18, as amended 42 Pa. C.S. §§9791-9799.7; and,

WHEREAS, Pennsylvania House Bill No. 1316 was introduced on April 11, 2005, which amendment provides for limitations on residence for sexually violent predators under which a sexually violent predator who committed any offense specified in §9795.1 (relating to registration) of Megan's Law II against a victim who was under fourteen (14) years of age at the time of the offense may not establish a residence within one and one-half (1½) miles by the nearest public highway of any public, private or parochial school that offers instruction on any level from kindergarten through elementary school; and,

WHEREAS, in an effort to protect children, Title 42, Sections 14071 and 3756 of the United States Code demonstrate a federal policy to register and monitor the location of certain sexual offenders and sexual predators; and,

WHEREAS, the Council of the City of Shamokin is concerned about convicted sexual offenders and sexual predators who are released from custody and repeat the unlawful acts for which they had originally been convicted; and,

WHEREAS, sexual offenders have a national recidivism rate of about 70% over four (4) years, compared with a rate of approximately 46% over three (3) years for all felonies in the Commonwealth of Pennsylvania; and,

WHEREAS, Pennsylvania has approximately 7,100 registered sex offenders as of December, 2004, 92 of whom are considered "sexually violent predators" according to Megan's Law; and,

WHEREAS, the Council of the City of Shamokin finds that the recidivism rate for released sexual offenders is alarmingly high, especially for those who commit crimes against children; and,

WHEREAS, the Council of the City of Shamokin has a compelling interest in protecting children from predatory sexual activity; and,

WHEREAS, prohibiting sexual offenders and sexual predators from living within one thousand five hundred (1,500) feet of schools, childcare facilities or municipal parks or playgrounds will reduce the amount of incidental contact sexual offenders and sexual predators have with children; and,

WHEREAS, reducing the occasion of incidental contact sexual offenders and sexual predators have with children will decrease the opportunity and temptation for sexual offenders and sexual predators to commit new sexual offenses against children; and,

WHEREAS, the Council of the City of Shamokin finds that persons who have committed the violations referenced in Megan's Law II, or who have been adjudicated as a sexually violent predator, have a reduced expectation of privacy; and,

WHEREAS, the Council of the City of Shamokin desires to establish a policy regulating where sexual offenders and sexual predators live in an effort to protect children of the City from sexual abuse by sexual offenders and sexual predators; and,

WHEREAS, this Ordinance is intended to be regulatory and remedial in nature and non-punitive; and,

WHEREAS, twelve states have enacted some form of residency restriction applicable to sex offenders; and,

WHEREAS, the United States Eighth Circuit Court of Appeals issued an Opinion in the case of Doe v. Miller, 2005 W.L. 991635 (8th Cir. April 29, 2005) and the Supreme Court of Iowa issued an Opinion in the case of Sate of Iowa v. Keith Frederick Seering, No.34/03-0776 (filed July 29, 2005), in which each Court upheld similar residency restrictions and found the restrictions to be constitutional.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the City of Shamokin, Northumberland County, as follows:

Section 1. Incorporations:

The foregoing recitals are herein incorporated by reference as though more fully set forth at length.

Section 2. Definitions:

(a) **Child Care Facility**. A licensed, pursuant to the laws of the Commonwealth of Pennsylvania, day care center or child care facility.

(b) **Permanent Residence**. A place where a person lives, abides, lodges, or resides for fourteen (14) or more consecutive days.

(c) **Park or Playground**. Any park or playground owned or operated by the City of Shamokin or any other governmental agency.

(d) **School.** Any public, private or parochial educational institution that offers instruction on any level from kindergarten through elementary school.

(e) **Temporary Residence.** A place where a person lives, abides, lodges, or resides for a period of less than fourteen (14) days in the aggregate during any calendar year, which is not the person's permanent address, residence or place where the person routinely lives, abides, lodges, or resides.

Section 3. Findings and Intent:

(a) The Council of the City of Shamokin has reviewed the findings of the Pennsylvania Legislature when it adopted Megan's Law II as well as resource materials from the Criminal Justice Information Services Division of the Federal Bureau of Investigation and the Center for Sex Offender Management (www.csom.org), as established in June, 1997 as a collaborative effort of the Office of Justice Programs, the National Institute of Corrections and the State Justice Institute and administered by the Center for Effective Public Policy and the American Probation and Parole Association, the goal of which is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. The Council of the City of Shamokin finds that repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual 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 sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this Section 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 areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

Section 4. Sexual offenders and sexual predator residence prohibition; Penalties; Exceptions:

(a) It is unlawful for any person who has been convicted of a violation of Section 9795.1 of Megan's Law II, 42 PA.C.S. §9795.1 (relating to registration), in which the victim of the offense was less than sixteen (16) years of age, to establish a permanent or temporary residence within one thousand five hundred (1,500) feet of any school, childcare facility, park or playground.

(b) For purposes of determining the minimum distance separation, the requirement shall be measured by the following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school, childcare facility, park or playground.

(c) Penalties: A person who violates this section shall be punished by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment for a term not exceeding sixty (60) days or period of community service not to exceed ninety (90) days or any combination of the same as determined at the discretion of the Magistrate Judge; each day a violation of this ordinance exists shall be a separate violation.

(d) Exceptions: A person residing within one thousand five hundred (1,500) feet of any school, childcare facility, park or playground, does not commit a violation of this section if any of the following apply:

(i) The person established the permanent residence prior to the date of the enactment of this ordinance;

(ii) Was a minor when he or she committed the offense and was not convicted as an adult;

(iii) The school, childcare facility, park or playground within one thousand five hundred (1,500) feet of the person's permanent or temporary residence was opened after the person established residence.

Section 5. Notification of the Pennsylvania Board of Probation and Parole.

The Council of the City of Shamokin shall supply or cause to be supplied to the Pennsylvania Board of Probation and Parole a duly certified copy of this ordinance to inform the state and county prison and probation and parole personnel about the limitations on residence set forth in this Ordinance.

Section 6. Severability.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 7. Enforcement. The Shamokin City Police shall be charged with the enforcement of this Ordinance.

Section 8. Effective date.

This Ordinance shall become effective immediately upon adoption.

APPROVED AND ADOPTED this 12th day of September, 2006 at a regular public meeting.

ATTEST:

CITY OF SHAMOKIN

City Clerk

Ronald Bradley, Mayor