

ORDINANCE NO. 2007-1

AN ORDINANCE OF THE BOROUGH OF WEST WYOMING, LUZERNE COUNTY,
PENNSYLVANIA
ESTABLISHING SEX OFFENDER RESIDENCY
RESTRICTIONS AND PENALTIES FOR VIOLATIONS

WHEREAS, the Pennsylvania State Legislature adopted requirements for the registration of sexual offenders ("Megan's Law"); and the requirements are set forth at 42 Pa C.S.A. beginning at Section 9791; and

WHEREAS, Megan's Law requires that persons convicted of various offenses, and persons adjudicated as a sexually violent predator, must register with the Pennsylvania State Police for certain prescribed time periods in accordance with a registration procedure as set forth in Megan's Law; and

WHEREAS, Megan's Law does not contain any restrictions with respect to where persons convicted of the crimes subject to registration or persons adjudicated sexually violent offenders may reside; and

WHEREAS, the Council for the Borough of West Wyoming finds that the danger of recidivism posed by persons convicted of the crimes identified in Megan's Law and persons adjudicated as sexually violent predators is of paramount concern to West Wyoming Borough; and

WHEREAS, the West Wyoming Council finds that persons who have committed the violations referenced in Megan's Law or who have been adjudicated as a sexually violent predator, have a reduced expectation of privacy; and, furthermore, that residency restrictions for such persons provides additional protection for children and places where children congregate; and

WHEREAS, the Board has reviewed the findings of the Pennsylvania Legislature in its enactment of Megan's Law, the findings and reports of other States and Commonwealths including, but not limited to, Alabama, Iowa, Louisiana, Georgia, all of which relate, in part, to restrictions imposed upon sex offenders with respect to residency.

NOW, THEREFORE, be it hereby ORDAINED and ENACTED as follows: 1. Definitions:

a) Child Care Facility. A licensed day care center, child care facility or any other child care service facility which may be exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania.

b) Common Open Space. The area of land and/or water restricted from future development for the purpose of protecting natural features or for providing recreational opportunities for residents of West Wyoming Borough, which said Open Space is owned, regulated and/or maintained by West Wyoming Borough.

c) Community Center. A building and related facilities used for educational, social cultural or recreational activities.

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

e) Public Park or Recreational Facility. Any recreational facility, playground or park, owned or operated by West Wyoming Borough, or any other governmental

agency, including, but not limited to, the Wyoming Area School District, Luzerne County or the Commonwealth of Pennsylvania.

f) School. Shall mean any public or private school which provides education services to a minor.

g) Sex Offender. Shall mean any person, over the age of eighteen (18) years of age, who has been convicted of any crime against a minor identified in Megan's Law which includes, but is not limited to, kidnapping, luring a child into a motor vehicle, institutional sexual assault, indecent assault, incest, prostitution, receiving sexual materials, sexual abuse of children, unlawful contact with minors, sexual exploitation of children, rape, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault, and individuals convicted of any attempt to commit any of the offenses enumerated therein.

h) 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 or place where the person routinely lives, abides, lodges, or resides and which is not the person's Permanent Residence.

2. Residency Restriction/Prohibition.

a) It shall be unlawful for any Sex Offender to establish a Permanent Residence or Temporary Residence within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreational Facility, or School including school bus stops.

b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the Permanent Residence or the Temporary Residence of the Sex Offender to the nearest outer property line of a Child Care Facility, Common Open Space, Community Center, Public Park or Recreational

Facility, or School.

3. Notice to Move.

Any Sex Offender who resides in a Permanent Residence or Temporary Residence within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School shall, within forty-five (45) days of receipt of written notice of the Sex Offender's non-compliance with this Ordinance, move from said location to a new location, but said location may not be within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School including school bus stops within the Borough. It shall constitute a continuing violation for each day beyond the forty-five (45) days the Sex Offender continues to reside within 1,500 feet of a Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School including bus stops. Furthermore, it shall be a violation each day that a Sex Offender shall move from one (1) location in West Wyoming Borough to another that is within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School including school bus stops.

4. Exceptions.

This Ordinance shall not apply to any person who has established Permanent or Temporary Residence prior to December 15, 2006; and it shall not apply if the Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School within 1,500 feet of the Sex Offender's Permanent Residence or Temporary Residence was established subsequent to the establishment of the Sex Offender's Permanent Residence or Temporary Residence.

5. Penalties.

Any person who violates the provisions of this Ordinance shall, upon conviction, before a District Judge, be sentenced to a term of imprisonment up to ninety (90) days and shall be fined not more than One Thousand (\$1,000.00) Dollars for each violation, plus the costs of prosecution and reasonable attorney's fees.

6. Enforcement

The West Wyoming Borough Police Department shall be charged with the enforcement of this Ordinance.

7. Publication.

Appropriate personnel of West Wyoming Borough are herein directed by January 30, 2007 to have prepared and placed on the West Wyoming Borough website a map of West Wyoming Borough depicting the areas where Sex Offenders are restricted from residing in a Permanent Residence or Temporary Residence.

8. Inclusion in Code of the Borough of West Wyoming.

It is the intent of the West Wyoming Council that the provisions of this Ordinance shall become and be made a part of the Code of the Borough of West Wyoming and the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section" or "article" or such other appropriate word or phrase in order to accomplish the intent of the Council.

9. Severability

The provisions of this Ordinance are severable. If any Section, clause, sentence, part or provision hereof shall be determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not impair or affect any remaining provisions of the Ordinance, it being the intention of the West Wyoming Council that it would have adopted this Ordinance even if the offending language had not been included.

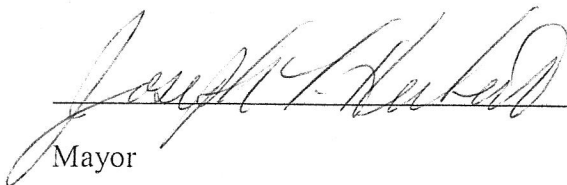
10. Repealer

All ordinances or parts of ordinances in conflict herewith are and the same are hereby repealed.

Passed by West Wyoming Borough Council on 8th day of JANUARY, 2007 and signed by the Mayor on the 8th day of JANUARY, 2007.

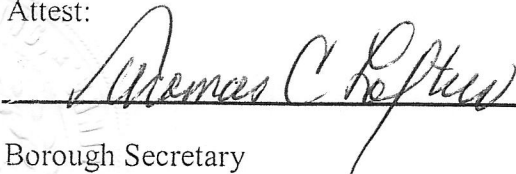


President of Council



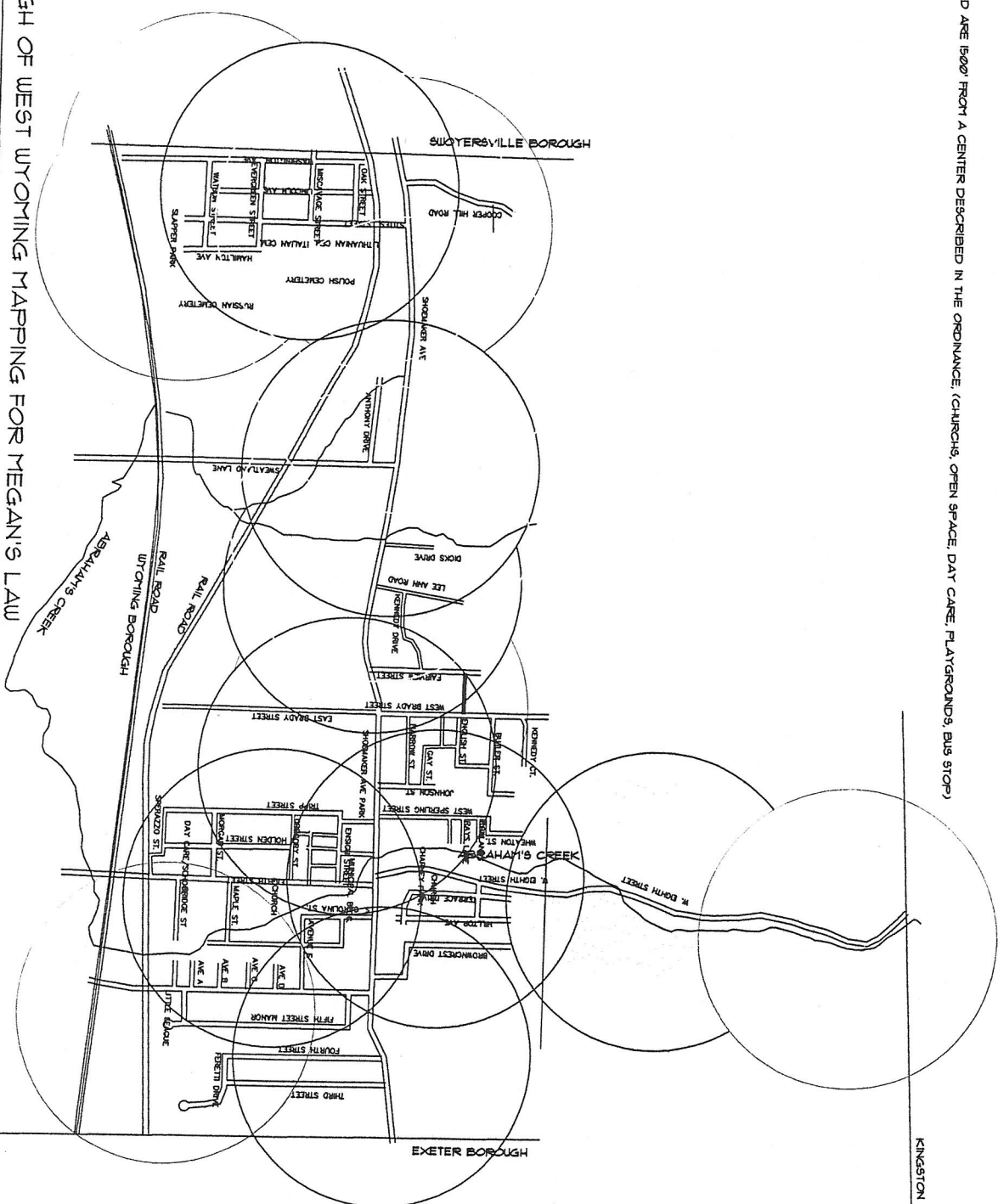
Mayor

Attest:



Borough Secretary

KINGSTON TWP.



BOROUGH OF WEST WYOMING MAPPING FOR MEGAN'S LAW

MICHAEL J. PASONICK JR. INC.
CONSULTING ENGINEERS AND SURVEYORS
163 Research Engineering
north miller-streets boulevard, miller-streets, annapolis, 17071

BOROUGH OF WEST WYOMING
WEST WYOMING BOROUGH,
LUTHERNE COUNTY,

PENNSYLVANIA

BOROUGH MAP

CHANGES BY	DATE	AND FILE	1
MA	12-8-06	KRXX	
CHANGES BY	DATE	PROPERTY BL	
MA	1-5-00	N/A	