

COUNCIL CHAMBER

City of Berea, Ohio

Ordinance No. 2019-49

By Jim Maxwell

Sponsored By Mayor Cyril M. Kleem Jr.

Council Members: Cheryl A. Baraszak

Bill Devito

Nick Heschka

Margaret S. Key

AN ORDINANCE

AMENDING SECTION 933.14, RESIDING WITHIN 1,000 FEET OF CERTAIN INSTITUTIONS PROHIBITED, OF CHAPTER 933, OBSCENITY AND SEX OFFENSES, OF PART NINE, GENERAL OFFENSES CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREAL TO EXPAND THE AREAS AND CIRCUMSTANCES IN WHICH A SEXUALLY ORIENTED OFFENDER MAY BE PROHIBITED FROM RESIDING OR LOITERING TO INCLUDE PUBLIC PLAYGROUNDS, PUBLIC PARKS AND CHILD RECREATION FACILITIES, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has previously found that and specifically finds again that sexually oriented crimes are particularly offensive to the safety and dignity of the citizens of Berea and that victims of sexually oriented crimes are often children, who are among the most innocent and vulnerable in society; and

WHEREAS, this Council has previously found that and specifically finds again that sexually oriented criminals have a high rate of recidivism and that the trauma experienced by the victims of sexually oriented crimes, especially children, is extraordinarily high; and

WHEREAS, this Council finds that several incidences have occurred at newly-constructed playgrounds that were formerly schools prior to demolition wherein children and parents have informed police that adults were engaged in stalking-type of behavior; and

WHEREAS, this Council finds it a compelling need to prohibit and frustrate the occurrence of sexually oriented crimes against children through this legislation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That Section 933.14, Residing Within 1,000 Feet of Certain Institutions Prohibited, of Chapter 933, Obscenity and Sex Offenses, of Part Nine, General Offenses Code, of the Codified Ordinances of the City of Berea, which has heretofore read as follows:

933.14 RESIDING WITHIN 1,000 FEET OF CERTAIN INSTITUTIONS PROHIBITED.

(a) No person who is convicted of, is found guilty or pleads guilty to a felonious sexually oriented offense or a felonious child-victim oriented offense after the effective date hereof shall establish residency, shall occupy residential premises, or shall loiter within one thousand feet of any school premises, preschool or child day-care center premises.

(b) Whoever violates subsection (a) hereof is guilty of residing within 1,000 feet of certain institutions, a misdemeanor of the fourth degree. Each day that a violation of subsection (a) occurs shall be considered a separate offense.

(c) As used in this section:

(1) "Child day-care center" has the same meaning as in Ohio R.C. 5104.01.

(2) "Preschool" means any public or private institution or center that provides early childhood instructional or educational services to children who are at least three years of age but less than six years of age and who are not enrolled in or are not eligible to be enrolled in kindergarten, whether or not those services are provided in a child day-care setting. "Preschool" does not include any place that is the permanent residences of the person who is providing the early childhood instructional or educational services to the children described in this paragraph.

(3) "Preschool or child day-care center premises" means all of the following:

A. Any building in which any preschool or child day-care center activities are conducted if the building has signage that indicates that the building houses

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a preschool or child day-care center, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;

- B. The parcel of real property on which a preschool or child day-care center is situated if the parcel of real property has signage that indicates that a preschool or child day-care center is situated on the parcel, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;
- C. Any grounds, play areas, and other facilities of a preschool or child day-care center that are regularly used by the children served by the preschool.

(4) "Loiter" means to be dilatory, to stand idly around, or to spend time idly.

(d) To the extent that a person described in subsection (a) hereof has entered into a rental or lease agreement prior to the effective date of this section, then the prohibition on residing within 1,000 feet of certain institutions shall not apply to such person until the termination or expiration of such rental or lease agreement, and no such rental or lease agreement shall be renewed beyond its term that expires after the effective date hereof. Nothing provided in this subsection (d) shall be constituted to limit, abrogate or diminish any other lawful remedy or action as set forth in Ohio R.C. 2950.034 or any other remedies provided by law.

shall be and the same is hereby amended in its entirety to read as follows:

933.14 RESIDING WITHIN 1,000 FEET OF CERTAIN INSTITUTIONS PROHIBITED.

- (A) No person who, after the passage of this ordinance, is convicted of, is found guilty or pleads guilty to a sexually oriented offense, as defined in Revised Code 2950.01(A) or a child-victim oriented offense, as defined in Revised Code 2950.01(C) shall establish residency, shall occupy residential premises, or shall loiter within one thousand feet of any school premises, public playground, public park, child recreation facility, preschool or child day-care center premises.
- (B) Each day the sexually oriented offender violates section (A) shall be considered a separate offense.
- (C) Whoever violates section (A) hereof is guilty of Prohibited Sexually Oriented Acts, a misdemeanor of the fourth degree.
- (D) As used in this section:
 - (1) "Child day-care center" has the same meaning as in section 5104.01 of the Revised Code.
 - (2) "Preschool" means any public or private institution or center that provides early childhood instructional or educational services to children who are at least three years of age but less than six years of age and who are not enrolled in or are not eligible to be enrolled in kindergarten, whether or not those services are provided in a child day-care setting. "Preschool" does not include any place that is the permanent residence of the person who is providing the early childhood instructional or educational services to the children described in this division.
 - (3) "Preschool or child day-care center premises" means all of the following:
 - (a) Any building in which any preschool or child day-care center activities are conducted if the building has signage that indicates that the building houses a

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preschool or child day-care center, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;

(b) The parcel of real property on which a preschool or child day-care center is situated if the parcel of real property has signage that indicates that a preschool or child day-care center is situated on the parcel, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;

(c) Any grounds, play areas, and other facilities of a preschool or child day-care center that are regularly used by the children served by the preschool or child day-care center if the grounds, play areas, or other facilities have signage that indicates that they are regularly used by children served by the preschool or child day-care center, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply.

(4) "Loiter" means to remain idle in essentially one place and includes the concepts of spending time idly, loafing or walking about aimlessly.

(5) "Public playground" means a playground established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

(6) "Public park" means a park established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

(7) "Child recreation facility" means any grounds, play areas, or other recreation facilities established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district that is regularly used by children if the grounds, play areas, or other recreation facilities have signage that indicates that they are regularly used by children and is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply.

(E) This section does not prohibit a sexually oriented offender from, to the extent necessary, attending meetings of public bodies as defined in R.C. 121.22.

(F) Nothing provided in this section shall be constituted to limit, abrogate or diminish any other lawful remedy or action as set forth in Ohio R.C. 2950.034 or any other remedies provided by law.

SECTION 2. That nothing in this Ordinance shall be interpreted to conflict with, preempt, or preclude any remedies or causes of actions set forth in Section 2950.034 of the Ohio Revised Code.

SECTION 3. That should any part or sub-part of this ordinance be declared unlawful for any reason, the balance of the ordinance shall continue in full effect. Any prior prohibitions included in Section 933.14 prior to amendment shall remain in full force and effect as if not disturbed.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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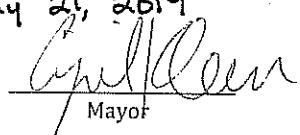
SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that any effort which can be made to assist in the prevention of sexually oriented crimes against children and residents of the City should be done so without delay. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: May 20, 2019


President of Council

ATTEST: May 20, 2019
Clerk of Council

APPROVED: May 21, 2019


Mayor

Approved as to Form:


Director of Law