

**VICTORIA
ORDINANCE 453 ZC PREDATORY OFFENDER**

**AN ORDINANCE ESTABLISHING SECTION 35, DESIGNATED PREDATORY
OFFENDER RESIDENCY RESTRICTIONS OF THE VICTORIA ZONING CODE**

WHEREAS, the City of Victoria wishes to establish Designated Predatory Offender Residency Restrictions within the Victoria Zoning Code; and

WHEREAS, Ordinance No. 414 adopted March 13, 2017 had previously established such restrictions.

NOW THEREFORE, be it ordained by the Council of the Victoria, in the State of Minnesota, as follows: Repeal and Replace. Ordinance No. 414 shall be repealed in its entirety and replaced with the following, which shall be numbered within the City of Victoria Zoning Code as Section 35 - Designated Predatory Offender Residency Restrictions

SECTION 1: **ADOPTION** “SECTION 35 - DESIGNATED PREDATORY OFFENDER RESIDENCY RESTRICTIONS” of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

SECTION 35 - DESIGNATED PREDATORY OFFENDER RESIDENCY RESTRICTIONS(*Added*)

SECTION 2: **ADOPTION** “35-1 Purpose” of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

35-1 Purpose(*Added*)

A. It is the intent of this ordinance 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 and vulnerable adults regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing permanent or temporary residence or participating in events designed for or involving children or vulnerable adults.

SECTION 3: **ADOPTION** “35-2 Definitions” of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

35-2 Definitions(*Added*)

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

Dedicated vulnerable adult housing is any residential facility that specializes and is licensed by the Department of Human Services in providing housing for vulnerable adults, as defined in Minnesota Statutes, section 626.5572.

Designated Level I or Level II predatory offender is any person who is required to register as a predatory offender under Minnesota Statute, section 243.166, as may be amended from time to time, who has been convicted of a **designated offense**, and who has been categorized as a Level I or Level II predatory offender under Minnesota Statutes, section 244.052 or successor statute, or a similar statute from another state.

Designated Level III predatory offender is any person who is required to register as a predatory offender under Minnesota Statute, section 243.166, as may be amended from time to time, and who has been categorized as a Level III predatory offender under Minnesota Statute, section 244.052, Subd. 3, or a successor statute, or a similar statute from another state.

Designated offense shall mean a conviction, adjudication of delinquency, or commitment under Minnesota statutes chapter 253B involving any of the following offenses against or involving a minor or vulnerable adult: Minnesota statutes sections: 609.342; 609.343; 609.344; 609.345; 609.3451, 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor statutes; or a similar offense from another state. Designated offense also includes committing the crime of failing to register as a predatory offender.

Licensed childcare facility is a childcare facility, including residential childcare facilities, currently licensed by the Carver County, Minnesota, public health and human services department.

Measurement of distance, for purposes 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 to the nearest outer property line of the properties listed in Section 35-3.

Neighborhood amenity is any amenity owned and operated by a homeowners' association where public gatherings take place, including swimming pools, private parks, clubhouses and related structures and surrounding area.

Permanent residence is a place where a person abides, lodges, or resides for 14 or more consecutive days.

Place of worship is a building where people gather to worship together such as a church, synagogue, or mosque.

Public park or playground is any publicly owned area that is designed, equipped, and set aside for children's play and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures. Parks shall include dog parks, boat launches, designated points of public water access, and play/athletic fields.

School is a public or nonpublic preschool, elementary or secondary school.

Temporary residence is a place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence; or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

Vulnerable adult is an individual defined in Minnesota Statutes, section 626.5572 and includes residents or inpatients of a facility as defined by State Statute; individuals who receive services required to be licensed under State Statute; and individuals who possess a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to provide adequately for their own care without assistance.

SECTION 4: ADOPTION “35-3 Buffered Uses And Distances Prohibited for Permanent Residence or Temporary Residence” of the Victoria Zoning Code is hereby added as follows:

ADOPTION

35-3 Buffered Uses And Distances Prohibited for Permanent Residence or Temporary Residence(*Added*)

- A. Based on the level of active adult supervision generally associated with each use, the city finds that the following buffer zones are appropriate and necessary.

1. For Designated Level I or Level II predatory offenders, it is unlawful to establish permanent residence or temporary residence within the established buffer for the following uses:
 - a. Public or Private School: 1,600 feet
 - b. Licensed childcare facility: 1,600 feet
 - c. Parks/playgrounds: 1,600 feet
 - d. Neighborhood amenity: 1,600 feet
 - e. Places of worship which provide regular educational programs: 1,600 feet
 - f. Libraries: 500 feet
 - g. The permanent residence of any other designated predatory offender: 2,000 feet
 - h. Dedicated vulnerable adult housing: 1,600 feet
2. For Designated Level III predatory offenders, it is unlawful to establish permanent residence or temporary residence within the established buffer for the following uses:
 - a. Public or Private School: 2,000 feet
 - b. Licensed childcare facility: 2,000 feet
 - c. Parks/playgrounds: 2,000 feet
 - d. Neighborhood amenity: 2,000 feet
 - e. Places of worship which provide regular educational programs: 2,000 feet
 - f. Libraries: 500 feet
 - g. The permanent residence of any other designated offender: 2,000 feet
 - h. Dedicated vulnerable adult housing: 2,000 feet

SECTION 5: **ADOPTION** “35-4 Exceptions” of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

35-4 Exceptions(*Added*)

- A. Section 35-3 of this Ordinance does not apply under the following circumstances:
 1. The Designated Level I or II predatory offender, or Designated Level III predatory offender, has lawfully and continuously established permanent residence and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167, or a successor statute, prior to Aug. 23, 2021 (date of adoption of this ordinance).
 2. The Designated Level I or II predatory offender, or Designated Level III

- predatory offender, was a minor when he/she committed the offense and was not convicted as an adult. However, in such circumstance, the offender's residence shall not be the same residence in which a previous victim resides.
3. The Designated Level I or II predatory offender, or Designated Level III predatory offender, is a minor. However, in such circumstance, the offender's residence shall not be the same residence in which a previous victim resides.
 4. The residence is a facility owned or leased by the Minnesota Department of Corrections.
 5. The locations listed herein Section (c) that are within the required buffer of the person's permanent residence were opened after the designated predatory offender established the permanent residence and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167, or a successor statute

SECTION 6: **ADOPTION** "35-5 Prohibited Activity" of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

35-5 Prohibited Activity(*Added*)

A. It is unlawful for any Designated Level I or II predatory offender, or Designated Level III predatory offender to participate in any events designed for or involving children under 18 years of age or vulnerable adults. This includes, but is not limited to holiday events or activities, children's concerts or programs, youth sporting events, etc. Events in which the offender is the parent or guardian of the children or vulnerable adult involved, and no non-familial children or vulnerable adults are present, are exempt from this subsection.

SECTION 7: **ADOPTION** "35-6 Penalty" of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

35-6 Penalty(*Added*)

A. Any person who violates this section shall be punished according to the laws of the State of Minnesota. A violation of this Section shall constitute a nuisance and misdemeanor. Each day a

person maintains a permanent residence or temporary residence in violation of this ordinance constitutes a separate violation.

SECTION 8: **ADOPTION** “35-7 Severability” of the Victoria Zoning Code is hereby *added* as follows:

ADOPTION

35-7 Severability(*Added*)

A. The provisions of this Section are severable and if any provision of this Section or application of any provision of this Section due to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Section shall not be affected thereby.

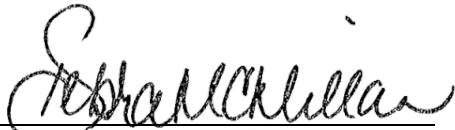
SECTION 9: **EFFECTIVE DATE** This Ordinance shall become effective upon its passage and publication in accordance with the law.

PASSED AND ADOPTED BY THE VICTORIA COUNCIL AUGUST 23, 2021.

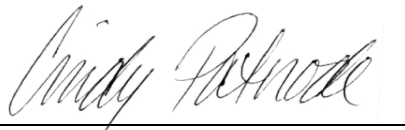
	AYE	NAY	ABSENT	ABSTAIN
Deb McMillan, Mayor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Judy Black, Council Member	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Derek Gunderson, Council Member	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Alvin Hebert, Council Member	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Chad Roberts, Council Member	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



Debra McMillan, Mayor, Victoria



Cindy Patnode, City Clerk Victoria

