

NUISANCE ORDINANCE No. 805B

**CITY OF CUYUNA
CROW WING COUNTY
STATE OF MINNESOTA**

**AN ORDINANCE AMENDING THE CUYUNA
CODE OF ORDINANCES RELATING TO NUISANCES AND OFFENSES BY ADDING SECTION
805B SEXUAL OFFENDERS AND SEXUAL PREDATORS**

THE CITY COUNCIL OF THE CITY OF CUYUNA DOES ORDAIN AS FOLLOWS:

The Cuyuna Code of Ordinances, Nos. 805 and 805A, Nuisances and Offenses, shall be amended by adding Section 805B, Sexual Offenders and Sexual Predators:

805B.001 Findings and intent.

Subd. 1 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.

Subd. 2 It is the intent of this article 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.

805B.002 Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Subd. 1 Designated offender means any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, or has been categorized as a Level III sex offender under Minnesota Statute § 244.052 or successor statute.

Subd. 2 Designated sexual offense means a conviction, adjudication of delinquency, commitment under Minnesota Statute §§ 253B, or admission of guilt under oath without adjudication involving any of the following offenses: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor statutes; or a similar offense from another state.

Subd. 3 Permanent residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

Subd. 4 Temporary residence means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and

which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

805B.003 Sexual offender and Sexual Predator Residence Prohibition; Penalties; Exceptions.

Subd. 1 Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence: a) within 2,000 feet of any school, licensed day care center, park, ball park, public trail or playground; or b) within 1,000 feet of any designated public school bus stop, place of worship which provides regular educational programs (i.e. Sunday school), or other places where children are known to congregate.

Subd. 2 Prohibited activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.

Subd. 3 Measurement of distance.

- A. 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 or temporary residence to nearest outer property line of a school, designated public school bus stop, day care center, park, playground, place of worship, or other place where children regularly congregate.
- B. The City Clerk shall maintain an official map showing prohibited locations as defined by this Ordinance. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones.

Subd. 4 Penalties. A person who violates this section shall be punished by a fine not exceeding \$1,000.00 or by confinement for a term not exceeding 90 days, or by both such fine and confinement. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation.

Subd. 5 Exceptions. A designated offender residing within a prohibited area as described in (805B.003 Subd. 1) does not commit a violation of this section if any of the following apply:

- A. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166, § 243.167, or successor statute, prior to February 13, 2010.
- B. The person was a minor when he/she committed the offense and was not convicted as an adult.
- C. The person is a minor.
- D. The school, designated public school bus stop or day care center within 2,000 feet of the persons permanent residence was opened after the person established the permanent

residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166 or § 243.167.

- E. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.
- F. The residence is a property owned or leased by the Minnesota Department of Corrections.

805B.004. Property Owners Prohibited From Renting Real Property To Certain Sexual Offenders And Sexual Predators; Penalties.

Subd. 1 It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this Chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section (805B.003 Subd. 1).

Subd. 2 A property owner's failure to comply with provisions of this Section shall constitute a violation of this Section, and shall subject the property owner to the code enforcement provisions and procedures as provided in Chapter 5 of this Code, including the provisions of Chapter 5 that allow the City to seek relief as otherwise provided by law.

Subd. 3 If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender.

805B .004 Severability.

Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

ADOPTED BY THE CITY COUNCIL ON March 4, 2010
PUBLISHED ON March 24, 2010

/s/
Lloyd Brix, Mayor

ATTEST:

/s/
William Bedard, Clerk

SUMMARY OF CUYUNA NUISANCE ORDINANCE SECTION 805B
SEXUAL OFFENDERS AND SEXUAL PREDATORS

The following official summary has been approved by the city council of Cuyuna as clearly informing the public of the intent and effect of this ordinance.

It is the intent and effect of the 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 regularly congregate in concentrated numbers, wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence. Among other things, this law prohibits or restricts residency for extreme sexual offenders or level III sexual offenders within 2000' of ball parks, playgrounds, day care, schools, and public trails.

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ADOPTED BY THE CITY COUNCIL ON March 4, 2010 .

A printed copy of the ordinance is available for inspection by any person at the office of the city clerk.

ATTEST:

/s/
Lloyd Brix, Mayor

/s/
William Bedard, Clerk