

BOROUGH OF NUANGOLA

Luzerne County, Pennsylvania

ORDINANCE NO. _____ of 2008

AN ORDINANCE OF THE BOROUGH OF NUANGOLA, LUZERNE COUNTY, PENNSYLVANIA, ESTABLISHING RESIDENTIAL RESTRICTIONS FOR REGISTERED ADULT SEXUAL VIOLENT OFFENDERS WITHIN THE BOROUGH, PROVIDING FOR PENALTIES FOR VIOLATIONS OF SUCH RESIDENTIAL RESTRICTIONS AND ESTABLISHING AN EFFECTIVE DATE

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Nuangola, Luzerne County, Pennsylvania, as follows:

WHEREAS, the Commonwealth of Pennsylvania has adopted certain requirements for the registration of adult sexual violent offenders after conviction (commonly known as Megan’s Law II) as more fully set forth in 42 Pa. C.S.A. §9791, et. Seq., and

WHEREAS, the registration of such offenders provides for certain notification and information about sexually violent predators and other certain offenders to the public in order to provide community awareness of such offenders within the community; and

WHEREAS, these offenders pose a high risk of engaging in further offenses after incarceration and release into the community which affects the general safety, welfare and best interest of the public; and

WHEREAS, the Legislature of the Commonwealth of Pennsylvania has determined that such sexually violent predators and certain other offenders have a reduced expectation of privacy because of the public’s interest in public safety; and

WHEREAS, the Commonwealth of Pennsylvania has no laws which adequately prohibit or restrict convicted such violent sexual predators and other certain offenders from residing or living near areas where children regularly meet and congregate; and

WHEREAS, the Council of the Borough of Nuangola believe that it is in the best interests of the Borough and its residents to adopt additional regulations regarding convicted sexual offenders, so as to protect the health, safety and welfare of the Borough, its residents, especially the children of the municipality;

NOW THEREFORE, BE IT ORDAINED AND ENACTED AS FOLLOWS:

1. DEFINITIONS

- a. **Child Care Facility:** a licensed day care center, licensed child care facility or any other child care services facility exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania.
- b. **Open Space:** the area of land or water available and accessible for use by the public and residents of the Borough which is restricted from future development for the purpose of protecting natural features or for providing recreational opportunities for the residents of the Borough. Open space generally includes such land or area of land that is regulated, maintained or owned by the Borough, and may include steep slopes, flood plains and other significant features to be preserved.
- c. **Community Center:** a building and related facilities used for educational, social, cultural or recreational activities.
- d. **Public Park or Recreational Facility:** any land, or tract of land, or facility used for such as, but not limited to, passive or active recreation, including any playground, park, skate parks, athletic fields and any other facility owned or operated by the Borough of any other governmental agency, including Luzerne County or the Commonwealth of Pennsylvania.
- e. **School/Reading Center/Library:** any educational building or facility that provides educational services to a minor child, as defined by the laws of the Commonwealth of Pennsylvania, including any public or private facility. Also a building that provides social gatherings for minor children.
- f. **Sex Offender:** any person, over the age of eighteen years, who has been convicted of any sexual offense or crimes as defined in 42 Pa. C.S.A. 9795.1, including but not limited to, kidnapping where the victim is a minor, institutional sexual assault, indecent assault, incest, prostitution and related offenses, sexual abuse of a child, unlawful contact with a minor, sexual exploitation of a minor, rape, involuntary deviate sexual intercourse, sexual assault, and aggravated indecent assault. Sex offender shall also include any individuals convicted of any attempt to commit the offenses as enumerated herein.
- g. **Borough:** the Borough of Nuangola, including its residents and all land within its territorial boundaries.

2. SEXUAL OFFENDER RESIDENCY RESTRICTIONS

- a. It shall be unlawful for any sex offender or other person over the age of eighteen years who has been convicted of a violation which requires registration pursuant to 42 Pa. C.S.A. §9791, et. Seq., or who has been convicted of a violation which requires registration in another jurisdiction, to reside, lodge, abide or live within

2,500 feet of, such as but not limited to, any school, child care facility, open space, community center, public park or recreational facility in the Borough.

- b. For the purpose of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence or lodging of the sex offender to the nearest outer property line of the school, child care facility, open space, community center, public park or recreational facility.
- c. Such person who resides or lives within 2,500 feet of any school, child care facility, open space, community center, public park or recreational facility in the Borough shall have sixty (60) days from receipt of written notice of the prohibition set forth herein to move. Failure to move to a location which is in compliance with this section within that time period shall constitute a violation of this chapter.

3. EXCEPTIONS TO RESIDENCY RESTRICTIONS

This Ordinance shall not apply to any person or sex offender who has established a residence prior to the date of adoption of this Ordinance, and shall not apply if the school, child care facility, open space, community center, public park or recreational facility within 2,500 feet of the sex offender's residence or lodging was established subsequent to the establishment of the sex offender's residence or lodging. The provisions of this Section 3 shall not apply to any person or sex offender who has established a residence or lodging, and then relocates to a different residence or lodging within the Borough after the adoption of this Ordinance.

4. PENALTIES

Any violation of this Ordinance shall be punishable by imprisonment for a term not exceeding ninety (90) days and a fine not exceeding \$1,000.00 for each violation, in addition to the costs of prosecution and attorney's fees.

5. ENFORCEMENT

All agencies and authorities within the Borough, including but not limited to the Nuangola Borough Co-operative Police Department, through Rice Township, have full authority to enforce this ordinance, and impose such fines and other penalties as necessary and appropriate.

6. SEVERABILITY

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court of competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance.

7. EFFECTIVE DATE

This Ordinance shall be effective ten (10) days after it has been approved by the Mayor, or in default thereof, ten (10) days after it is deemed approved by operation of law.

DULY ENACTED AND ORDAINED, this _____ day of _____, 2008, by the Borough Council of Nuangola, of the Borough of Nuangola, Luzerne County, Pennsylvania, in lawful session duly assembled.

Roll Call Vote Taken:

Shari Andes: _____
Anthony DeLuca: _____
Douglas Fawbush: _____
Steven Hudak: _____
John Kochan: _____
Conrad Plodwick: _____
Regina Plodwick: _____

Enacted and Ordained into law this _____ day of _____, 2008.

ATTEST:

**BOROUGH OF NUANGOLA
Luzerne County, Pennsylvania**

Secretary

BY: _____
REGINA PLODWICK
President of Council

EXAMINED AND APPROVED, this _____ day of _____, 2008.

Norman Rule
Mayor of Nuangola Borough
Luzerne County, Pennsylvania