

AD HOC REPORT – SEX OFFENDER ORDINANCE

OCTOBER 18, 2006

Chairperson Mary Teicholz called the meeting to order at 6:00 p.m. In attendance were committee members Basso and Perkins. Dan Casagrande from Corporation Counsel, Alan Baker, Chief of Police and Mark Williams, Dectective Sergeant. Also in attendance were council members Taborsak, Diggs, Rotello, Cavo, Seabury, Chianese and Cutsumpas, ex officio.

Mr. Casagrande reviewed the October 5, 2006 decision from the Federal Court in the Indianapolis case which imposed a 1,000 ft. distance prohibition on any convicted sex offender entering certain public parks and playgrounds in the City of Indianapolis. The Federal Court issued a decision in which it held that the 1,000 foot prohibition was unconstitutional. The Federal Court stated that the ordinance was vague because the ordinance did not define “accompanied by” and “public park”. The Court also found that the ordinance was a violation of the ex post facto clause of the United States Constitution and there was no rational connection between the 1,000 foot distance prohibition and the aim of the ordinance which was to protect children.

Mr. Casagrande drafted a very conservative ordinance which would minimize the chance of a challenge to the constitutionality of the prohibition. This proposed ordinance will propose a flat prohibition against entering public parks and playgrounds. There is no distance requirement and no residency requirement. This ordinance states if you’re a convicted sex offender you are prohibited from entering the specified parks and playgrounds. A local ordinance such as this is authorized under general state statutory authority to enact ordinances that are within the police power. Mr. Casagrande thinks there is a very good basis under state law for adopting this ordinance.

Mr. Casagrande summarized the proposed ordinance and questions and discussion followed.

Mrs. Basso asked about the playgrounds at Rogers Park where there is a ball field on both sides. Is it legal for them to drive down Rogers Park? Mr. Casagrande stated that this ordinance would not cover someone driving down a public street.

Mr. Seabury asked if this is restrictive to a middle school. Mr. Casagrande stated yes, if the school has a playground or sports facility.

Mr. Rotello asked if this ordinance takes into effect an “adult sex offender” to another “adult” as compared to a “child sex offender”. Mr. Casagrande stated yes. If they were convicted of a specified crime(s) that are in the sex offender registry statute, those people would be subject to this ordinance.

Mr. Chianese had concerns. Why have the number of people living in Danbury who are registered sex offenders in this ordinance, defining “private” versus “public” building and the word “notice” which places a burden on the police department. He also asked how out-of-town visitors will be aware of this ordinance. Mr. Casagrande doesn’t think the presence of having the clause of the amount of people living in Danbury is necessary in this ordinance and will leave it up to the committee to decide. He stated that the broader we make this ordinance, the greater the chance this will be subject to a constitutional challenge. Mr. Casagrande responded that the “failure to receive this notice” would not be deemed a defense.

Mr. Williams gave a status of the current sex offender registry. He stated that anyone mandated to register with the states' sex offender registry, would have to abide by this local ordinance. Mr. Williams did not think this would be a burden on the Police Dept.

Chief Baker thinks this ordinance is a good idea. The police department resources and manpower to enforce this ordinance would be limited and would not be a priority. Another challenge for the police department is writing the warnings and tracking them because the technology system is not very good.

Mr. Casagrande questioned Mr. Baker if this ordinance aids the police department in getting a person away from a child who may be in that same vicinity or being a threat to children in that vicinity. Mr. Baker said absolutely. He supports the idea of this ordinance.

Mrs. Rotello suggested we add "parking lot" to this ordinance. Mr. Casagrande agreed.

Mrs. Diggs asked at what point is the written warning and the \$100 fine given? Mr. Casagrande stated that the way this ordinance would be enforced would be as part of the citation enforcement ordinance of the City.

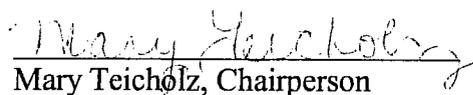
Mr. Cavo agrees with the ordinance as it stands. Would like to see the clause of the number of sex offenders in the City of Danbury remain in the ordinance and doesn't think we should place signs around the City for every ordinance.

Mr. Perkins asked Mr. Casagrande if we can make a punitive statute or punitive ordinance. Mr. Casagrande stated no. We can only make an ordinance that furthers a civil purpose. Its punitive if it infringes on certain fundamental rights, which the U.S. Supreme Court has recognized over the years as beyond the rights recognized in the Bill of Rights.

Mrs. Basso moved to accept the ordinance with the amendments to include changing the number of sex offenders to approximately 40, amending the wording of the child safety zone to include facilities that have leases with the city and to make clear that parking lots are included within the definition of the facilities deemed to be child safety zone and send it to the next Common Council meeting for voting with the discussed changes subject to a public hearing. Seconded by Mr. Perkins. Motion passed unanimously.

Mrs. Basso moved to adjourn at 7:30 p.m. Seconded by Mr. Perkins. Motion passed unanimously.

Respectfully submitted,


Mary Teicholz, Chairperson

Pauline Basso, Councilman

Duane Perkins, Councilman



ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

AMENDING CITY OF DANBURY CODE OF ORDINANCES, CHAPTER 12 (OFFENSES, MISCELLANEOUS PROVISIONS) BY ADDING SECTION 27, PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING PUBLIC PARKS, PLAYGROUNDS AND OTHER PUBIC FACILITIES FREQUENTED BY CHILDREN; DEFINING CHILD SAFETY ZONE, CHILD SEX OFFENDER; PROVIDING FOR ENFORCEMENT PROCEDURES AND PENALTIES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the Connecticut Legislature has found that persons convicted or found not guilty by means of mental disease or defect of certain criminal offenses against minors and sexually violent offenses, present a continuing danger to the health and safety of the public, sufficient to require that such persons register with the Connecticut Commissioner of Public Safety; and

WHEREAS, as of November 2006, the Connecticut Department of Public Safety's Sex Offender Registry ("Sex Offender Registry") shows that approximately forty (40) people living in Danbury are registered sex offenders; and

WHEREAS, the Common Council finds from the evidence that the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and

WHEREAS, the Common Council recognizes that the City of Danbury has a compelling interest in protecting children from the threat of sexual abuse; and

WHEREAS, the City's public parks, playgrounds, sports and recreation facilities are provided for the use, education, training, entertainment and enjoyment of children and their families, and such venues are intended to be and should be free of the dangers presented to children's health, safety and welfare by persons required to register on the Sex Offender Registry; and

WHEREAS, the Common Council finds that the public health, safety and welfare of the community, particularly children, will be best served by prohibiting persons required to register with the Sex Offender Registry from entering into a public park, playground, recreation center, bathing beach, swimming pool or wading pool, sports field or sports facility.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF DANBURY:

SECTION 1. That the City of Danbury Code of Ordinances be amended by adding Section 27 to Chapter 12, as follows:

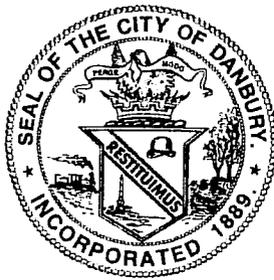
Chapter 12 - 27

(1) Prohibition Regarding Child Sex Offender in Child Safety Zone.

(a) Definitions: For the purpose of this Ordinance the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(i) "Child Safety Zone " means:

- (a) A park, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility, including the parking area and land surrounding any of the aforementioned facilities, which is 1) under the jurisdiction of any department, agency, or authority of the City of Danbury, including but not limited to the Board of Education of the City of Danbury, or 2) leased by the City of Danbury to another person



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ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

for the purpose of operating a park, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility.

(ii) "Child sex offender" means:

(a) A person who has been convicted or found not guilty by reason of mental disease or defect of 1) a "criminal offense against a victim who is a minor," 2) "a nonviolent sexual offense," 3) a "sexually violent offense," or 4) any felony that the court finds was committed for a "sexual purpose," as those terms are defined in subdivisions (2), (5), (11) and (12) of Section 54-250 of the Connecticut General Statutes as amended, and who is required to register with the Commissioner of Public Safety pursuant to Sections 54-251, 54-252, 54-253 or 54-254 of the Connecticut General Statutes as amended, or

(b) A person who has been convicted or found not guilty by reason of mental disease or defect in any other state, in a federal or military court or in any foreign jurisdiction of any crime the essential elements of which are substantially the same as any of the crimes specified in subdivisions (2), (5) and (11) of section 54-250 of the Connecticut General Statutes as amended, and which requires registration as a sexual offender in such other state or in the federal or military system, and who resides in this state on and after October 1, 1998.

(iii) "Not guilty by reason of mental disease or defect" means that which is defined in subdivision (6) of section 54-250 of the Connecticut General Statutes as amended.

(b) Prohibition.

It shall be unlawful for a child sex offender to be present in any Child Safety Zone.

(c) Exceptions.

The provisions of this Ordinance shall not apply to:

(i) Any person whose name has been removed from the Connecticut Department of Public Safety's Sex Offender Registry or from the registry of any other state or in the federal or military system by act of a court or by expiration of the term such person is required to remain on such registry.

(ii) Any person entering into a facility in a Child Safety Zone for the sole purpose of voting in any municipal, state or federal election or referendum, provided that the person leaves the facility immediately after voting.

(2) Notice.

The Chief of Police or his designee shall make reasonable efforts to provide prompt, actual written notice of the enactment of this Ordinance (which notice shall contain a copy of the Ordinance) to all persons who are listed on the Sex Offender Registry as of the effective date of this Ordinance, as well as those persons who are added to the Sex Offender Registry thereafter. Such notice requirement may be satisfied by the mailing of such notice by registered or certified mail, return receipt requested to the last known address of such person as listed on the Sex Offender Registry or as otherwise known to the Chief of Police. The failure of any person to receive such actual written notice shall not be a defense to a violation of this Ordinance.

(3) Enforcement Procedures.

If a police officer reasonably believes that a child sex offender is in a Child Safety Zone in violation of this Ordinance, the officer shall require the suspected child sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a child sex offender, then the officer shall issue a written warning that he/she is in violation of this Ordinance and require the person to leave the Child



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ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

SECTION 1. That the City of Danbury Code of Ordinances Section 12-34 (b) (4) is hereby amended by adding the language that is underlined as follows:

Danbury police officers shall be authorized to issue citations for violations of the provisions of sections 3A-27, 12-2, 12-3, 12-4, 12-13, 12-14, 12-24, 12-27, 12-33 and 18-13 of the Danbury Code of Ordinances. In addition to the foregoing, Danbury police officers shall be authorized to issue citations for violations of the provisions of the Danbury Code of Ordinances identified in paragraphs (1) through (3) of this subsection.