

Chapter 40

SEXUAL OFFENDERS RESIDENCE AND LOITERING RESTRICTIONS

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Sec. 40-1. Findings and Intent.

(a) The Village Board finds that 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 that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offenders' victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this ordinance not impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village 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.

Sec. 40-2. Definitions.

(a) *Child* means a person under the age of 18 for purposes of this ordinance.

(b) *Contiguous* means parcels of property that are in direct physical contact along a boundary or a point. A parcel of property is also contiguous to another for purposes of this ordinance when such parcels are separated from direct physical contact along a boundary or a point only by a stream, tributary, river, public or private road, street, or highway.

(c) *Designated Offender* means any person who is required to register under Wis. Stats. Sec. 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stats. Sec. 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. Sec. 301.46(2) and (2M).

(d) *Minor* means a person under the age of 17.

(e) *Permanent Residence* means a place where the person abides, lodges, or resides for 14 or more consecutive days.

(f) *Temporary Residence* means a place where the 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 address 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 address.

Sec. 40-3. Sexual Offender and Sexual Predator Residence, Prohibition, Penalties, Exceptions.

(a) *Prohibited Location of Residence.* It is unlawful for any designated offender to establish a permanent residence or temporary residence on property that is contiguous to any golf course, public or private

elementary or secondary school, licensed day care center, park, recreational trail, playground, or place of worship.

(b) *Prohibited Activity.* It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age by means of distributing candy or other items to children on Halloween, wearing a Santa Claus costume in a public place on or preceding Christmas, or wearing an Easter Bunny costume in a public place on or preceding Easter, or other similar activities that may, under the circumstances then present, tend to entice a child to have contact with a designated offender. Holiday events in which the offender is the parent or legal guardian of the children involved, and no non-familial children are present are exempt from this paragraph.

(c) *Loitering.* It shall be unlawful for any designated offender to loiter or prowl at any public or private elementary or secondary school or school property; recreational trail, playground or park; or within 200 feet of a licensed day care center in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of the persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a law enforcement officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

The prohibitions set forth in this section (above) shall not apply where the designated offender is a minor and was with one or both of his or her parents or other adult person having his or her care.

(d) *Child Safety Zones.* The Village Police Department shall maintain an official map showing locations identified in Section 40-3(a) of this ordinance. The Police Department shall update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as “child Safety zones”. The map is to be displayed in the office of the North Prairie Village Clerk. In the event of a conflict, the terms of this Ordinance shall control.

(e) *Penalties*

1. A person who violates provision of Sub. (3)(a) of this ordinance shall be subject to a forfeiture of not less than \$500.00 and no more than \$1,000.00 for each violation. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation. The Village may also seek equitable relief to gain compliance.
2. Any person violating Sub. (3)(b) or Sub. (3)(c) of this ordinance shall forfeit not less than \$1,000.00 and no more than \$2,000.00 for each violation.

(f) *Exception.* A designated offender residing within a prohibited area as described in Section (3)(a) does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. Sec. 301.45 before the effective date of this Ordinance.
2. The person is a minor and is not required to register under Wis. Stat. Sec. 301.45 or Sec. 301.46.
3. The golf course, public or private elementary or secondary school, licensed day care center, park, recreational trail, playground, or place of worship was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. Sec. 301.45.
4. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children provided that such parent, grandparent, sibling, spouse or child established the residence at least two years before the designated offender established the residence at the location.

Sec. 40-4. Property Owners Prohibited From Renting Real Property to Certain Sexual Offenders and Sexual Predators.

(a) 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 ordinance, if such place, structure, or part thereof, trailer or other conveyance is located within a prohibited location zone described in Section (3)(a).

(b) A property owner's failure to comply with provision of this section shall constitute a violation of this section, and shall subject the property owner to the enforcement provisions in Section (3)(e) as provided in this ordinance.

Sec. 40-5. Severability.

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provision may be declared invalid. If any provision of this ordinance or the application to any person or circumstance is held invalid, the remainder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

(Ord. No. 2-08, §1, 7-10-2008)