

ARTICLE III. SEX OFFENDER RESTRICTIONS

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Sec. 30-130. Residency restrictions for sexual offenders.

- (a) *Findings and intent.* The town board finds that repeat sexual offenders who use physical violence and sexual offenders who prey on children, are sexual offenders 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.

It is not the intent of the town board to punish sex offenders, but rather to serve the town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the town by creating areas around locations where children regularly congregate in concentrated numbers, wherein, certain sexual offenders are prohibited from establishing temporary or permanent residence.

Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of reoffense, there is a compelling need to protect children where they congregate or play in public places.

- (b) *Definitions.* For purposes of this section:

Child means a person under the age of 18 years.

Minor shall mean a person under the age of 18 years.

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

Sex offender shall mean:

- (1) Any person who is required to register under Wis. Stats. § 301.45 for any offense against a child or any person who is required to register under Wis. Stats. § 301.45 and who is subject to the special bulletin notification process set forth in Wis. Stats. §§ 301.46(2) and (2m);
- (2) Any person subject to the sex crimes commitment provisions of Wis. Stats. § 975.06.
- (3) Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under Wis. Stats. § 971.17 (1j).

Temporary residence shall mean 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 address or 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 address.

- (c) *Residency restriction.*

- (1) *Restriction.* In absence of a court order specifically exempting a sexual offender from the residency restriction in this subsection, a sexual offender shall not establish a permanent or temporary residence within 1,000 feet of any private or public school, recreational trail, playground or park or other place where children regularly gather; or licensed day care center as defined in Wis. Stats. § 48.65.
- (2) *Map of restricted locations.* The town clerk shall maintain an official map showing prohibited locations as defined by this section. Such map shall be adopted by resolution of the town board from time to time. The town clerk 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.

- (d) *Residency restriction exceptions.* A sex offender residing within a prohibited area as described in subsection (c)(1) does not commit a violation of this section if any of the following apply:

- (1) The person established a permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45, before the effective day of this section.
- (2) The person was under 17 years of age and is not required to register under Wis. Stats. § 301.45 or 301.46.
- (3) The school, recreational trail, playground, park, or licensed day care center where children regularly gather within 1,000 feet

of the person's permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45.

- (4) The person is required to serve a sentence at a jail, juvenile facility or other correctional institution or facility located within a prohibited area.
- (5) The person is:
 - a. A minor who was adjudicated delinquent of (or found guilty of) a sex offender offense in juvenile court and placed with a guardian;
 - b. A minor placed with a guardian; or
 - c. A ward under guardianship and placed in accordance with the guardianship orders.

In such cases involving a minor placed in accordance with this exception, when the minor turns 18 years of age, the minor would be allowed to continue to reside at the already established residence.

(Ord. No. 2011-03, § 1, 11-14-2011)

Sec. 30-131. Loitering restrictions for sex offenders.

- (a) *Loitering.*
 - (1) *Offense.* It shall be unlawful for any sex offender as defined in subsection [30-130\(b\)\(2\)](#), to loiter or prowl within 200 feet of or at any school or school property; recreational trail, playground or park; or a licensed day care center or other location where children regularly congregate; in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of 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.
 - (2) *Exceptions.* The prohibitions set forth in subsection (a) shall not apply where the actor was with his or her parent or other adult person having his or her care, custody or control; or the actor was exercising First Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

(Ord. No. 2011-03, § 1, 11-14-2011)

Sec. 30-132. Measurement of distance.

For the purposes of determining the minimum distance requirements under [section 30-130](#) and [section 30-131](#), 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 private or public school, recreational trail, playground or park where children regularly gather or licensed day care center.

(Ord. No. 2011-03, § 1, 11-14-2011)

Sec. 30-133. Penalty.

- (a) A person who violates provisions of subsection [30-130\(c\)](#) 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 violation continues shall constitute a separate offense. The town may also seek equitable relief to gain compliance.
- (b) Any person violating subsection [30-131\(a\)](#) shall forfeit not less than \$500.00 and no more than \$1,000.00 for each violation.

(Ord. No. 2011-03, § 1, 11-14-2011)