

ORDINANCE NO. 61

AN ORDINANCE TO REGULATE AND RESTRICT
RESIDENCY OF SEXUAL OFFENDERS IN
THE TOWN OF OAKLAND

WHEREAS, the Town Board is authorized by Wisconsin Statutes to enact ordinances for the health, safety and welfare of the public; and

WHEREAS, the Town Board is aware that it cannot prohibit convicted sex offenders completely within its community, but can restrict where convicted sex offenders reside;

NOW, THEREFORE, the Town of Oakland, in an effort to minimize the risk of re-offense and to protect the safety and welfare of the public, hereby enacts Ordinance No. 61; an ordinance to regulate and restrict the residency of sexual offenders in the Town of Oakland.

**THE TOWN BOARD OF THE TOWN OF OAKLAND, JEFFERSON COUNTY,
WISCONSIN DOES ORDAIN AS FOLLOWS:**

Section 1. Purpose and Intent.

This Ordinance is a regulatory measure aimed at protecting the health and safety of children in the Town of Oakland from the risk that convicted sex offenders may reoffend in locations close to their areas of congregation. The Town finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new sexual assault. Given the high rate of recidivism for sex offenders and the fact that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to particularly protect children where they congregate or play in public and community places in addition to the protections afforded by state law near schools, day-care centers and other places children frequent. It is not the intent of the Township to punish sex offenders, but rather to serve the Township's compelling interest to promote, protect, and improve the health, safety and welfare of the citizens of the Town of Oakland by creating areas around certain locations where children regularly congregate in concentrated numbers, wherein certain sexual offenders are prohibited from establishing temporary or permanent residence.

Section 2. Definitions.

For purposes of this section:

- (a) "Child" means a person under the age of eighteen (18) years.
- (b) "Offender" shall mean:

- 1) Any person who is required to register under sec. 301.45, Wis. Stats, for any offense against a child or any person who is required to register under sec. 301.45, Wis. Stats, and who is subject to the Special Bulletin Notification process set forth in sec. 301.46(2) and (2m), Wis. Stats.;
 - 2) Any person subject to the sex crimes commitment provisions of Sec. 975.06, Wis. Stats.;
 - 3) Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under sec. 971.17(1j), Wis. Stats.
- (c) “Permanent residence” shall mean a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (d) “Temporary residence” shall mean a place where a 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 place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and is not the person’s permanent address.
- (e) “Original domicile” means the offender’s true, fixed and permanent home, to which the offender intends to return and remain even though currently residing elsewhere.

Section 3. Residency Restriction.

- (a) Restriction. In the absence of a circuit court order specifically exempting an offender from the residency restriction in this subsection, an offender shall not establish a permanent or temporary residence within 1,500 feet of any of the following:
- 1) Public or private school
 - 2) Public or community association park, parkway, parkland, or beach
 - 3) Lake Ripley Park
 - 4) Mobile Home Parks
 - 5) Recreational trail
 - 6) Public or community association playground
 - 7) Public library
 - 8) Athletic field used by children
 - 9) Licensed daycare center, as defined in sec. 48.65, Wis. Stats.
 - 10) Specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school
 - 11) Group home for children, as defined in sec. 48.02(7), Wis. Stats.
 - 12) Residential care center for children, as defined in sec. 48.02(15d), Wis. Stats.
 - 13) Foster home, as defined in sec. 48.02(6), Wis. Stats, or treatment foster home, as defined in sec. 48.02(17q), Wis. Stats.

- (b) Measuring Distance and Map of Restricted Locations. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to the nearest outer property line of the establishments listed above in subparagraph (a). The Town Clerk shall maintain an official map showing prohibited locations as defined by this section. The Town Clerk shall update the map at least annually to reflect any changes in the prohibited areas.
- (c) Exceptions. An offender residing within a prohibited areas as described in subparagraph (a) above does not commit a violation of this section if any of the following apply:
- 1) The offender is required to serve a confined sentence at a jail or other correctional institution or facility located within a prohibited area.
 - 2) The offender established a permanent or temporary residence and reported and registered the residence pursuant to sec. 301.45, Wis. Stats., before the effective date of this Ordinance. Once said offender no longer resides in the restricted area, said offender may not return to such restricted area or any other restricted area and another convicted sex offender may not establish residence in said restricted area.
 - 3) The school, park, beach, recreational trail, playground, library, athletic field, daycare, specialized school, group home, residential care center or foster home, where children regularly gather within 1,500 feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and reported and registered the residence pursuant to sec. 301.41, Wis. Stats.
 - 4) The offender is a minor or ward under guardianship.
- (d) Original Domicile Restriction. In addition to the residence restrictions set forth herein and subject to section 3(c), above, no offender shall be permitted to establish a residence in the Town of Oakland unless such person was domiciled in the Town of Oakland at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a sex offender as set forth in section 2(b), above.
- (e) Property Owners prohibited from renting real property to certain offenders.
- 1) It is unlawful to let or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent or temporary residence by any offender prohibited from establishing such permanent or temporary residence

pursuant to this Ordinance, if such place, structure, or part thereof, is located within a prohibited area and not subject to an exception set forth in section 3(c), above.

- 2) A property owner’s failure to comply with this section shall constitute a violation of this section, and shall subject the property owner to the penalty provisions in Section 5, below.

Section 4. Child Safety Zones.

- (a) Definition. “Child Safety Zones” shall include any real property upon which there exists any route, path, area, or facility used for or which supports a use of:

- 1) A public or private school
- 2) A public or community association park, parkway, parkland, or beach
- 3) Lake Ripley Park
- 4) Mobile Home Parks
- 5) A recreational trail
- 6) A public or community association playground
- 7) A public library
- 8) Athletic fields used by children
- 9) Licensed daycare center, as defined in sec. 48.65, Wis. Stats.
- 10) Specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school
- 11) Group home for children, as defined in sec. 48.02(7), Wis. Stats.
- 12) Residential care center for children, as defined in sec. 48.02(15d), Wis. Stats.
- 13) Foster home, as defined in sec. 48.02(6), Wis. Stats, or treatment foster home, as defined in sec. 48.02(17q), Wis. Stats.

- (b) Restriction. It shall be unlawful for any offender to enter or be present upon any child safety zones.

- (c) Map of Restricted Locations. The Town Clerk shall maintain an official map depicting the child safety zones as defined by this section. The Town Clerk shall update the map at least annually to reflect any changes in the restricted locations.

- (d) Exceptions. An offender may enter or be present upon a child safety zone if any of the following apply:

- 1) The child safety zone also serves as a church, synagogue, mosque, temple or other house of religious worship (collectively “church”) subject to the following conditions:
 - i.) Entrance and presence upon the property only occurs during hours of worship or other religious programs/service as posted to the public;

- ii.) Written advance notice is made from the offender to an individual in charge of the church, and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the offender; and
 - iii.) The offender shall not participate in any religious education programs which includes individuals under the age of 18.
- 2) The child safety zone also serves a use lawfully attended by an offender’s natural or adopted child(ren) or natural or adopted grandchild(ren), which child’s use reasonably requires the attendance of the offender as the child’s parent or grandparent upon the property, subject to the following conditions:
- i.) Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
 - ii.) Written advance notice is made from the offender to an individual in charge of the use upon the property, and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the offender.
- 3) The child safety zone also serves as a polling location in a local, state, or federal election, subject to the following conditions:
- i.) The offender is eligible to vote;
 - ii.) The designated polling place for the offender is an enumerated use; and
 - iii.) The offender enters the polling place property and proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the offender vacates the property immediately after voting.
- 4) The child safety zone also serves as an elementary or secondary school attended by an offender as a student, under which circumstances the offender who is a student may enter upon that property supporting the school at which he or she is enrolled, as is reasonably required for the educational purposes of the school.
- 5) The offender is transporting the offender’s natural or adopted child(ren) or natural or adopted grandchild(ren) to or from school or a child care facility.

Section 5. Violations and Penalties.

- a.) Any person who violates the provisions of this Ordinance shall be subject to a forfeiture of not less than \$200 and no more than \$500 for each violation, plus the costs of prosecution (including reasonable attorney fees).
- b.) Each day a violation continues shall constitute a separate offense.

- c.) In addition to the penalty provided above, violations of this Ordinance are also deemed public nuisances, and the Township may bring an action in Circuit Court to enjoin or abate any violation. The Township may also seek equitable relief to gain compliance.

Section 6. Severability.

The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions 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.

Section 7. Effective Date. This Ordinance shall take effect after passage, publication, and attestation as provided by law.

Adopted this _____ day of _____, 2015.

By the Town Board of the Town of Oakland, Jefferson County, Wisconsin:

Town Chairperson

Attest:

_____, Town Clerk

Published: _____

Posted: _____