

Chapter 9.25
Designated Sex Offenders Restrictions

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9.25.10 Purpose and Intent

A. The Village find 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 rape or sexual assault. Given the high rate of recidivism for sex offenders and the reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and daycare centers. The village finds and declares that, in addition to schools and daycare centers, youth or children congregate or play at parks and other public and private places of enrichment activities, creation, entertainment, amusement, and other facilities for children. Therefore, finding that sex offenders are a serious threat to public safety as indicated above, the Village Board hereby declares the residency or presences of sex offenders in proximity to public and private places where children and your ay congregate or frequent under circumstances prescribed in this ordinance to be a public nuisance.

B. This chapter is a regulatory measure aimed to protecting the health and safety of children in the Village of Oakfield from the risk that convicted sex offenders may reoffend in locations close to their residences. It is the intent of this chapter not to 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 residences; and by creating child safety zones where children regularly congregate in concentrated number wherein access by certain sexual offenders and sexual predators to such zones shall be restricted or excluded.

9.25.30 Definitions.

As used in this chapter and unless the context otherwise requires, the following terms shall have the meanings indicated:

“Adult” means a person who has attained the age of 18 years or older.

“Child” means a person under the age of eighteen (18) years.

“Child Safety Area” means an area where children congregate or play, and shall include publicly owned areas, privately owned areas with public accommodations that cater to children and/or privately owned areas where and when children are present.

“Crime against children” means any of the following set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government having like elements necessary for conviction and involving a person under the age of eighteen (18)years, respectively:

§940.225(1) First Degree Sexual Assault

§940.225(2) Second Degree Sexual Assault

§940.225(3) Third Degree Sexual Assault

- §940.22(2) Sexual exploitation by therapist
- §940.30 False Imprisonment-Victim was Minor and Not the Offender's Child
- §940.31 Kidnapping- Victim was Minor and Not the Offender's Child
- §940.225 Rape
- §944.06 Incest
- §948.02 Sexual Intercourse with a Child
- §948.02 Indecent Behavior with a Child
- §948.07 Enticing Child for Immoral Purposes
- §948.02(1) First Degree Sexual Assault of a Child
- §948.02(2) Second Degree Sexual Assault of a Child
- §948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child
- §948.05 Sexual Exploitation of a Child
- §948.055 Causing a Child to View or Listen to Sexual Activity
- §948.06 Incest with a Child
- §948.07 Child Enticement
- §948.075 Use of a Computer to Facilitate a Child Sex Crime
- §948.08 Soliciting a Child for Prostitution
- §948.095 Sexual Assault of a Student by School Instructional Staff
- §948.11(2)(a)or(m) Exposing a Child to Harmful Material felony sections
- §948.12 Possession of Child Pornography
- §948.13 Convicted Child Sex Offender Working with Children
- §948.30 Abduction of Another's Child
- §971.17 Not Guilty by Reason of Mental Disease or an Included Offense
- §975.06 Sex Crime Law Commitment

“Offender” means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a sexually violent offense.

“Permanent residence” means the place where a person sleeps, abides, lodges or resides for

fourteen (14) or more consecutive days or which qualifies as a residence under the holdings of the Wisconsin Supreme Court and which may include more than one location, and maybe mobile or transitory.

“Recreational trail” means all parts and segments of the Wild Goose Trail that that passes through the Village of Oakfield.

“Sexually violent offense” shall have the meaning as set forth in Section 980.01(6), Wisconsin Statutes, as amended from time to time.

“Temporary residence” means residence or premises meeting any of the following criteria:

1. A place where the person sleeps, abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not that person's permanent residence as defined in this section;
2. A place where the person routinely sleeps, abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not that person's permanent residence as defined in this section; or
3. A place where a person sleeps, or which qualifies as a temporary residence under the holdings or the Wisconsin Supreme Court, and which may include more than one location, and may be mobile or transitory.

9.25.40 Child Safety Areas

9.25.42 Child Safety Areas Defined

A. No Designated Sex Offender, as defined in Chapter 9.25.30 above, shall enter upon or be present within 250 feet of any real property upon which there exists any child safety area, which includes the following:

1. Public or private school that includes students in grades of high school or below;

2. Public parks, parkway, parkland, park facility
3. Public playgrounds;
4. Public library;
5. Public swimming pool;
6. Daycare facility for children;
7. Athletic fields used by children;
8. Community center that includes programming for children;
9. Recreational trails.
10. Aquatic facilities open to the public
11. Any facilities for children (which means a public or private school, a foster home, as defined in §48.02 (6), Wis. Stats., a treatment foster home, as defined in §48.08 (17q), Wis. Stats., or a day care provider certified under §48.651, Wis. Stats.

Measurement of Distance: The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest boundary line of the real property that supports or upon which there exists any of the uses enumerated in section A.

9.25.45 Child Safety Area exceptions

A designated sex offender does not commit a violation of Chapter 9.25.42 and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

- A. The property supporting an enumerated use under Chapter 9.25.42 also supports a polling location in a local, state or federal election, subject to the following conditions:
 1. The person is eligible to vote;
 2. The designated polling place for the person is an enumerated use; and
 3. The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property immediately after voting.

B. The property within 250 feet of a child safety area and also supports a church or other house of worship, is subject to the following conditions:

1. Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public;
2. Written advance notice is made from the person 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 person; and
3. The person shall not participate in any religious education programs which include individuals under the age of 18.

C. The property supporting an enumerated use under Chapter 9.25.42 also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:

1. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
2. Written advance notice is made from the person 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, of the attendance by the person; and
3. The Department of Corrections or Department of Health Services has authorized the visit, as required by the conditions of the person's release.

D. The offender has been continuously employed on a full-time, part-time or seasonal basis at a property supporting an enumerated use, subject to the following conditions:

1. The offender continues employment which commenced on or before the effective date of this Chapter;
2. The sexually violent and/or crime against children of which the offender has been convicted occurred prior to the commencement of the employment; and
3. The employer has taken reasonable measures to reduce the opportunity and temptation of the offender to reoffend.

9.25.60 Residency Restrictions

A person shall not reside within two thousand (2,000) feet of the real property comprising any child safety area, defined in Chapter 9.25.42.

Measurement of Distance: The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest boundary line of the real property that supports or upon which there exists any of the uses enumerated in section 9.25.42 (A) .

9.25.70 Residency Restriction exceptions

A. Person residing within two thousand (2,000) feet of the real property comprising any child safety area listed in Chapter 9.25.42, does not commit a violation of this chapter if any of the following apply:

1. The person has established a residence prior to the effective date of this Chapter which is within two thousand (2,000) feet of any child safety area.
2. The child safety area is newly established after the effective date of this Chapter and is located within two thousand (2,000) feet of a residence of a designated sex offender which was established prior to the effective date of this Chapter.
3. The person is a minor or ward under guardianship

B. In addition to and notwithstanding the foregoing, but subject to 9.25.70 of this section, no person, who has been convicted of a sexually violent offense and/or crime against children, shall be permitted to reside in the Village of Oakfield and no supervised release of such Wisconsin Statute Chapter 980 sexually violent person shall be established in the Village of Oakfield unless such person was domiciled in the Village of Oakfield at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.

9.25.80 Prohibited Activity

It is unlawful for any person to participate in a holiday even involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.

9.25.90 Violations and penalties

A. Any person who violates provisions of chapters Section 9.25.42 shall be subject to a forfeiture of not less than \$500 and no more than \$1,000 for each violation. Each day a violation continues shall constitute a separate offense

B. Any person violating 9.25.60 and 9.25.80 of this chapter shall forfeit not less than \$1,000 and no more than \$5,000 for each violation. Each day a violation continues shall constitute a separate offense

C. Injunction-violation of Residency Restrictions. If an offender establishes a permanent or temporary residence in violation of Section 9.25.60, the chief of police may refer

the matter to the village attorney. The referral shall include a written determination by the chief of police that, upon all of the facts and circumstances and the purpose and intent of the chapter, such violation interferes substantially with the comfortable enjoyment of life, health, safety of another or others. Upon such referral, the village attorney shall bring an action in the name of the village in municipal court or circuit court to permanently enjoin such residency as a public nuisance.

D. If a law enforcement officer issues a citation for a violation of this ordinance to a designated sex offender who is on lifetime supervision under Wis. Stat. §939.615, and because the designated sex offender is subject to control by the Department of Corrections as set forth therein, the law enforcement officer shall advise the Department of Corrections as to the issuance of said citation. The Village finds that providing such notification is appropriate and necessary for the Department of Corrections to execute its responsibility of control over the designated sex offender, which may include temporarily taking the designated sex offender into custody, as set forth in §939.615(5), Wis. Stats.

9.25.99 Severability

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.