

SEX OFFENDER RESIDENCY ORDINANCE

Section 1. Recitals.

The Wisconsin Statutes, including Chapters 940, 944, and 948 thereof, govern the punishment of individuals who commit sex crimes. The Wisconsin Statutes also govern the release into the community of such individuals. The Town is responsible to maintain the public health, safety, and welfare and finds that sex offenders have high recidivism rates that threaten the public health, safety, and welfare, especially that of children.

The Town Board has reviewed findings in several studies related to recidivism and risk related to individuals who have committed sex crimes. Those studies include the following:

- (a) Center for Sex Offender Management Fact Sheet: What You Need to Know About Sex Offenders. This fact sheet provided information about sex offender recidivism, including that it is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood; that one in six adult women and one in thirty-three adult men experience an attempted or completed sexual assault; that approximately 67% of all victims of reported sexual assaults are under age 18 and more than half are under age 12; and that about 12-24% of sex offenders will re-offend.
- (b) U.S. Department of Justice, Bureau of Justice Statistics – Recidivism of Sex Offenders Release from Prison in 1994. This study found that compared to non-sex offenders release from state prisons, release sex offenders were four times more likely to be re-arrested for a sex crime.
- (c) Correctional Service Canada – Forum on Corrections Research. This study of 178 sex offenders released from a maximum-security psychiatric facility found that after an average follow-up of 59 months, 27.5% of sex offenders in the study sexually recidivated and 40.4% of the sex offenders were arrested, convicted, or returned to a psychiatric facility for a violent offense.
- (d) California Research Bureau – The Impact of Residency Restrictions on Sex Offenders and Correctional Management: A Literature Review. This study found that at the time it was written twenty-two states had enacted some form of residency restriction that prohibits sex offenders from living within a certain distance of schools, daycare centers, or places where children congregate. The least restrictive among them was 500 feet, but distances from 1,000 to 2,500 feet were common.

- (e) National Bureau of Economic Research – There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan’s Laws. This study found that the majority of both violent and non-violent offenses take place less than one mile from victims’ homes. It also found that prices of homes near sex offenders declined considerably following an offender’s arrival in the neighborhood.
- (f) An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri. This study found that while in Michigan, residency restrictions led to a slight increase in recidivism, in Missouri, the reconviction rate declined.

Based on the above studies and other information presented to the Town Board, the Board determines that the restrictions set forth in this Ordinance serve the purpose of protecting the public health, safety, and welfare from the risk of recidivism of sex offenders. The Board further determines that the intent and effect of this Ordinance is not to banish sex offenders from residing within the Town, and careful attention has been given to ensure that there are ample locations for sex offenders to reside within the Town in compliance with the requirements of this Ordinance.

The Board further determines that the opportunity for individualized consideration of the risks and benefits of residency restrictions on a case-by-case basis is the best approach to achieve the purposes of this Ordinance and, to that end, this Ordinance establishes an “exemption” process by which a sex offender may seek an exemption from its residency restrictions by petitioning to the Board’s Sex Offender Residence Board.

Section 2. Purpose.

The purpose of this Ordinance is to protect the public health, safety, and welfare in the Town by regulating the residency of sex offenders.

Section 3. Definitions.

- (a) Sex offender. A person who has been convicted of, has been found delinquent of, or has been found not guilty of by reason of disease or mental defect of a sexually violent offense or a crime against children.
- (b) Sexually violent offense. Shall have the meaning set forth in Wis. Stat. § 980.01(6).
- (c) Crime against children. Shall mean any of the following offenses set forth in the Wisconsin Statutes, as amended, or in the laws of this or any other state or the federal government having like elements necessary for conviction, respectively:

Wis. Stat. § 940.225(1) First Degree Sexual Assault.

Wis. Stat. § 940.225(2) Second Degree Sexual Assault.

Wis. Stat. § 940.225(3) third Degree Sexual Assault.

Wis. Stat. § 940.22(2) Sexual Exploitation by Therapist.

Wis. Stat. § 940.30 False Imprisonment – Victim was Minor and Not Offender’s Child

Wis. Stat. § 940.31 Kidnapping – Victim was Minor and Not Offender’s Child

Wis. Stat. § 944.02 Rape (prior statute, now Wis. Stat. § 940.225)

Wis. Stat. § 944.06 Incest.

Wis. Stat. § 944.10 Sexual Intercourse with a Child (prior statute, now Wis. Stat. § 948.02)

Wis. Stat. § 944.11 Indecent Behavior with a Child (prior statute, now Wis. Stat. § 948.02)

Wis. Stat. § 944.12 Enticing Child for Immoral Purposes (prior statute, now Wis. Stat. § 948.07)

Wis. Stat. § 948.02(1) First Degree Sexual Assault of a Child.

Wis. Stat. § 948.02(2) Second Degree Sexual Assault of a Child.

Wis. Stat. § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child.

Wis. Stat. § 948.05 Sexual Exploitation of a Child.

Wis. Stat. § 948.055 Causing a Child to View or Listen to Sexual Activity.

Wis. Stat. § 948.06 Incest with a Child.

Wis. Stat. § 948.07 Child Enticement.

Wis. Stat. § 948.075 Use of a Computer to Facilitate a Child Sex Crime.

Wis. Stat. § 948.08 Soliciting a Child for Prostitution.

Wis. Stat. § 948.095 Sexual Assault of a Student by School Instruction Staff.

Wis. Stat. § 948.11(2)(a) or (am) Exposing a Child to Harmful Material.

Wis. Stat. § 948.12 Possession of Child Pornography.

Wis. Stat. § 948.13 Convicted Child Sex Offender Working with Children.

Wis. Stat. § 948.30 Abduction of Another's Child.

Wis. Stat. § 971.17 Not Guilty by Reason of Mental Disease or an Included Offense.

Wis. Stat. § 975.06 Sex Crime Law Enforcement.

- (d) Residence. A place where a person sleeps, abides, lodges, or resides on a permanent or regular basis. For purposes of this definition, a permanent basis means 14 or more consecutive days and a regular basis means 14 or more aggregate days during any calendar year and four or more days in any month. A person may have more than one residence.

Section 4. Residency Restriction.

- (a) Except as otherwise provided in this Ordinance, a Sex Offender may not reside within 2,000 feet of any real property upon which there exists any of the following uses, whether the applicable following use is located within the Town or in another municipality:
- (1) A school for children.
 - (2) A public park, park facility, or pathway.
 - (3) A daycare licensed by the State of Wisconsin.
 - (4) A public library.
 - (5) A public playground.
 - (6) A public athletic field used by children.
 - (7) A residential care center for children.
 - (8) A public swimming pool.
 - (9) A public community center.
- (b) For purposes of this section, distance is to be measured in a straight line from the closest boundary line of the real property upon which the Sex Offender's residence is located to the closest boundary line of the real property of the applicable use.

Section 5. Residency Restriction Exceptions.

A Sex Offender residing within an area otherwise prohibited by Section 4 does not commit an offense if any of the following apply:

- (a) The person is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.
- (b) The person had established a residence, as defined Section 3 above, at the location prior to the effective date of this Ordinance.
- (c) The use enumerated in Section 4 was established after the Sex Offender established a residence at the location and registered that residence as required by law.
- (d) The Sex Offender is a minor or ward under guardianship.

Section 6. Safety Zones.

No Sex Offender may enter or be present on any real property upon which there exists any facility used for or which supports the use of:

- (a) A school for children.
- (b) A public park, park facility, or pathway.
- (c) A daycare licensed by the State of Wisconsin.
- (d) A public library.
- (e) A public playground.
- (f) A public athletic field used by children.
- (g) A residential care center for children.
- (h) A public swimming pool.
- (i) A public community center.

Section 7. Safety Zone Exceptions.

A Sex Offender present in an area otherwise prohibited by Section 6 does not commit an offense if any of the following apply:

- (a) The property supporting a use enumerated in Section 6 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:
 - (1) Entrance and presence on the property may occur only during hours of worship or other religious program or service.
 - (2) The person may not participate in any religious education programs that include individuals under the age of 18.
- (b) The property supporting a use enumerated in Section 6 also supports a use lawfully attended by the Sex Offender's natural or adopted child or children, which child's use reasonably requires the attendance of the Sex Offender, provided that entrance and presence on the property occurs only during hours of activity related to the use by the child or children.
- (c) The property supporting a use enumerated in Section 6 also supports a polling location in a local, state, or federal election, subject to the following conditions:
 - (1) The Sex Offender is eligible to vote.
 - (2) The polling location is the designated polling location for the Sex Offender.
 - (3) The Sex Offender casts his or her ballot with whatever usual and customary assistance is available and vacates the property immediately after voting.
- (d) The property supporting a use enumerated in Section 6 also supports a school lawfully attended by the Sex Offender as a student, provided that the Sex Offender may only remain on the property at such times that are reasonably required for his or her educational purposes.
- (e) The property supporting a use enumerated in Section 6 also supports a police station, Town hall, or other governmental building, provided that the Sex Offender vacates the property immediately after completing the activity that required his or her presence at the property.

Section 8. Original Residency Restriction.

In addition to the other residency restrictions set forth herein and subject to the limitations in Section 5, no Sex Offender may establish a residence in the Town unless he or she was a resident of Shawano County at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a Sex Offender. This limitation shall not apply to the establishment of a residence at a dwelling that is owned by a member of the Sex Offender's family at the time the Sex Offender establishes residence therein. For purposes of this section, a member of a Sex Offender's family means the Sex Offender's mother, father, brother, sister, child, or grandparent.

Section 9. Sale or Rental of Property for Use by Sex Offenders.

No person may sell or rent any place, structure, or part thereof with knowledge that it will be used as a residence by any Sex Offender that is prohibited from establishing residence therein by this Ordinance.

Section 10. Petition for Exemption.

- (a) A Sex Offender may seek an exemption from this Ordinance by petitioning to the Sex Offender Residence Board ("Residence Board").
- (b) The Residence Board shall consist of three citizens residing in the Town. Members shall be selected by the Town Chairperson subject to the approval of the Town Board. Members shall serve for a term of five years and shall serve no more than two consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one year, a second member serving three years, and a third member serving five years.
- (c) The Residence Board shall approve an official petition form. The Sex Offender seeking an exemption must complete the petition and submit it to the Town Clerk, who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Town's interest in promoting, protecting, and improving the health, safety, and welfare of the community. Applicable factors for the Residence Board to consider include, but are not limited to:
 - (1) Nature of the offense that resulted in designated offender status.
 - (2) Date of offense.
 - (3) Age at time of the offense.

- (4) Recommendation of probation or parole officer.
- (5) Investigative Report of the Police Department.
- (6) Recommendation of any treating practitioner.
- (7) Counseling, treatment and rehabilitation status of the Sex Offender.
- (8) Remorse of Sex Offender.
- (9) Duration of time since Sex Offender's incarceration.
- (10) Support network of Sex Offender.
- (11) Relationship of offender and victim(s).
- (12) Presence or use of force in offense(s).
- (13) Adherence to terms of probation or parole.
- (14) Proposals for safety assurance of Sex Offender.
- (15) Conditions to be placed on the exemption.

- (d) The Residence board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address, time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the Sex Offender and the Police Department.

Section 11. Enforcement.

A person violating this Ordinance shall be subject to forfeitures in an amount of not less than \$200.00 nor more than \$500.00 for each violation plus the costs of prosecution (including reasonable attorneys' fees). For purposes of calculating forfeitures, each day that a violation exists shall constitute a separate offense. Violations of this Ordinance are also deemed public nuisances, and the Town may bring an action in circuit court to enjoin or abate any violation.

Section 12. Severability.

The terms and provisions of this Ordinance are severable. Should any term or provision of this Ordinance be found invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect, or, to the extent permitted by law, the court is authorized to substitute an alternative term or provision for the invalid term or provision.

Section 13. Rules of Construction.

In the construction of this Ordinance, references to the singular include the plural. References to “person” extends to natural persons, firms, corporations, partnerships, limited liability companies, or other entities.

Section 14. Effective Date.

This Ordinance shall be effective upon its adoption and publication.

Dated this 9th day of September 2024.

TOWN OF ANGELICA