

2/18 original

2017-3..

THE TOWN OF TOWNSEND DOES ORDAIN AS FOLLOWS:

I. SEX OFFENDER RESTRICTIONS

A. FINDING AND INTENT.

1. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the Town of Townsend from the risk that sexual offenders convicted of an offense against a child may re-offend in locations close to where children congregate. Given the high rate of recidivism for sexual offenders, and that 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. The Town finds and declares that sex offenders are a serious threat to the public safety of children if regulatory measures are not in place that prohibit their presence in specified areas designated as places children commonly congregate. Therefore, the Town finds that reasonable restrictions within the town are necessary.
2. It is not the intent of this ordinance to impose a criminal penalty, but rather to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the children of the Town by prohibiting convicted sexual offenders from loitering or being present in specified areas around locations where children regularly congregate in concentrated numbers. It is the further intent of this ordinance to recognize that convicted sexual offenders must reenter the community, and the Town of Townsend hereby recognizes that convicted sex offenders must become part of society subject to reasonable regulation and restriction and that regulatory measures aimed at protecting children, are not prohibiting convicted sexual offenders from being part of society,

B. DEFINITIONS.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

1.

Child or Children means person(s) age 17 or younger.

2. Restricted Zones are defined as follows:

- (a) No sex offender shall be within fifty feet (50') of any of the following places:

1. a public park, parkway, parkland, park facility;
2. a public swimming pool;
3. a public library;
4. a recreational trail;
5. a public playground;
6. a school for children;
7. athletic fields used by children;
8. a movie theatre;
9. a daycare center;
10. designated bus stops;
11. any specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school;
12. a public or private golf course or range;
13. aquatic facilities open to the public; and
14. any facility for children (which means a public or private school, a group home, as defined in §48.02(7), Wis. Stats, a residential care center for children and youth, as defined in §48.02(1Sd), Wis. Stats, a shelter care facility, as defined in §48.02(17), Wis. Stats, a foster home, as defined in §48.02(6), Wis, Stats, a treatment foster home, as defined in §48.02(17q), Wis. Stats, a day care center licensed under §48.65, Wis, Stats, a day care program established under §120.13(14), Wis. Stats, a day care provider certified under §48,651(m), Wis. Stats, or a youth center, as defined in §961.01(22), Wis. Stats,).

(b) A person does not commit a violation of this ordinance if any of the following apply:

1. The place identified also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "place of worship") subject to the following conditions:
  - a. Entrance and presence is limited to that portion of the premises that is a place of worship and either:
    - i, Occurs only during hours of worship or other religious programs/services; or
    - ii, The person is present for counseling or worship purposes with the prior or contemporaneous knowledge and consent of an individual in charge of the place of worship or such counseling or worship.
  - b. The place identified 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:

- i. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
    - ii. 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 return, of the attendance by the person.
  - c. The place identified also supports a polling location in a local, state or federal election, subject to the following conditions:
    - i. The person is eligible to vote;
    - ii. The designated polling place for the person is an enumerated use; and
    - iii. 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.
  - d. The place identified also supports an elementary or secondary school lawfully attended by a person as a student under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.
  - e. The place identified also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
    - i. The sex offender is on the property only to transact business at the government office or place of business, other than a public library, or attend an official meeting of a governmental body; and
    - ii. The sex offender leaves the property immediately upon completion of the business or meeting,
3. Loiter or Loitering means whether in a crowd, group or as an individual, to stand idly about, loaf, prowl, congregate, wander, linger aimlessly, proceed slowly or with many stops, to delay or dawdle, for the purpose or in a manner likely to interact or attempting to interact with children (excepting children of the offender), or engaging in activities that would interest children (excepting the children of the offender) or acting in a manner that otherwise has no legitimate purpose.
4. Residence: means a place where the person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar

year or a 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. Where a voluntary concurrence of physical presence and intent to remain in a fixed place of habitation are present the place will be presumed to be a residence. A residence may be more than one location and may be mobile or transitory.

5. Loiter Free Zones: the 200 foot radius surrounding all Restricted Zones.
6. Sex Offender is a person who has been convicted of, or has been found delinquent of, has been found not guilty by reason of disease or mental defect of a "sexually violent offense" and/or a "crime against children", or has been required by any court to register under Wis. Stat. 301.45 for any offense against a child,
7. Sexual Violent Offense shall have the meaning as set forth in Wisconsin Statute 980.01(6), as may be amended.

C. MEASUREMENT OF DISTANCE: For purposes of determining required distances, 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 Restricted Zone.

D. PROHIBITED LOCATION AND/OR ACTS

I. Restricted Zones:

- a. Restricted Zone Restrictions: It is unlawful for any Designated Offender to be physically present within a Restricted Zone under any of the following circumstances:
  - 1) When children are present or are reasonably presumed or known to be present; or
  - 2) Monday through Friday, in a school or day care center Restricted Zone and between 7:00 am, and 11:00 p.m.; or
  - 3) In a park or playground Restricted Zone and between 7:00 a.m. and 11:00 p.m.
- b. Restricted Zone Restriction Exceptions: A Designated Offender may be physically present on any day or time within a Restricted Zone if all of the following are present:
  - 1) The Designated Offender has official business, which is determined by the reasonable person standard; and
  - 2) The Designated Offender is accompanied by another adult who is not a Designated Offender.

2. Loiter Free Zones: It is unlawful for a Designated Offender to loiter in the Loiter Free Zones surrounding a Restricted Zone.

3. **Holiday Prohibition:** It is unlawful for any Designated Offender to participate in a holiday event involving children, such as distributing candy or other items *to* children on Halloween, wearing a Santa Clause costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the Designated Offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.

E. **SEXUAL OFFENDER: RESIDENCY PROHIBITIONS.**

- (a) **PROHIBITED LOCATION OF RESIDENCE.** It is unlawful for any designated offender to establish a permanent residence or temporary residence in a Restricted Zone including within 1,500 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Town as a place where children are known to congregate.
- (b) **EXCEPTIONS.** A designated offender residing within a prohibited area as described in Section (2) (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. §301.45 before the effective date of this Ordinance or any predecessor ordinance.
  - 2, The person is a minor and is not required to register under Wis. Stat. §301.45 or §301.46,
  3. The school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Town *as* a place where children are known to congregate within 1,500 feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. §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 (2) years before the designated offender established residence at the location.

F. **RENTAL PROHIBITIONS.**

- (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 code enforcement provisions in Section (3)(d) as provided in this ordinance.

G. SALE PROHIBITIONS INCLUDING PROHIBITED SALES BY AGENTS,

- (a) It is unlawful for any owner, real estate broker or real estate sales person to participate in the sale of any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a temporary or permanent residence by a person prohibited from establishing such permanent or temporary residence pursuant to this Ordinance, if such place, structure; part thereof, trailer or conveyance, is located within a prohibited location zone described in Section (3)(a),
- (b) Failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject the person violating this section to the code enforcement provisions in Section (3)(d) as provided in this Ordinance.

H. APPEAL.

- (a) Sex Offender Residency Board. The Town Board shall act as the Sex Offender Residency Board, unless it determines otherwise by way of amendment to this ordinance. The Board shall have the authority to waive the requirements of the Sex Offender Residency restrictions contained in this ordinance by submitting an appeal to the Town Clerk's office which shall be forwarded to the Board which shall receive and consider reports from law enforcement, the Department of Corrections, Probation and Parole, or other agencies or individuals that have information necessary for the Board to act on the appeal submitted,

The Board shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Board shall forward its decision in writing to the Town of Townsend Clerk and the Town of Townsend Police Department for their information and action. A written copy of the decision shall be provided to the affected party,

I. PENALTIES.

- (1) A person who violates this Ordinance shall be punished by a forfeiture not exceeding \$2,000.00 together with the actual costs of prosecution, including attorney fees, if necessary.
- (2) Each day a person is in violation of any subsection of this ordinance constitutes a separate violation.
- (3) Each person who is found to have violated this section shall immediately vacate any premises which they occupy and agree to be removed from any residence or location occupied in violation of this ordinance, including the issuance of a mandatory or permanent injunction by the appropriate court.

J. 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 is held invalid, the remainder of the ordinance shall not be affected.

K. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

L. This ordinance shall take effect on and after its passage and publication.

Approved and adopted this 11<sup>th</sup> day of July 2017

Carla Van Camp, Chairperson

Dan Martin, Supervisor

Linda Adamczyk, Supervisor

Date of Publication: July 11, 2017

Date: July 11, 2017

Linda Ziegler, Clerk