

CHAPTER 23

SEXUAL OFFENDER RESIDENCY RESTRICTIONS

23.01 Sexual Offender Residency Restrictions

23.01 SEXUAL OFFENDER RESIDENCY RESTRICTIONS.

(A) Findings and Intent.

(1) **Findings.** Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children, including their own, either male or female relatives or strangers are a threat to the moral standards of society. These people are deemed to be physically, morally, psychologically and socially dangerous by society's standards. The aforementioned 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 reported, and as a result are prosecuted for only a fraction of their crimes. This makes the effects of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(2) **Intent.** It is the intent of this Ordinance not to impose a criminal penalty, but rather to service the Town of Somers' compelling interest to promote, protect and improve the health, safety and welfare of all residents of the Town of Somers by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators could feel enticed, intimidated or lose self-control to relapse to a mental state as before being treated or incarcerated. Repeat sexual offenders, sexual offenders who use violence and sexual predators will be prohibited from establishing temporary or permanent residency in close proximity to known locations within the Town where children regularly congregate.

(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" means a person under the age of sixteen (16) years for purposes of this ordinance.

(2) "Designated Offender" means any person who is required to register under Section 301.45 and 301.46, Wisconsin Statutes, for any sexual misconduct or violation as a result of being a repeat sexual offender, sexual offender who has used physical violence in committing an offense or who has preyed upon children

(3) "Minor" means a person under the age of seventeen (17) years.

(4) "Permanent Residence" means a place where the Designated Offender lodges or resides for fourteen (14) or more consecutive days.

(5) "Temporary Residence" means either: (a) 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 and which is not the person's permanent address; or, (b) a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's Permanent Residence.

(6) "Prohibited Location" means any school, licensed daycare center, unlicensed care facility where three (3) or more children that may be related by heredity, park, trail, playground, place of worship, or any other place designated by the Town as a place where children are known to congregate.

(C) **Sexual Offender and Sexual Predator Residence; Prohibitions and Exceptions.**

(1) **Prohibited Location of Residence.**

(a) It is unlawful for any Designated Offender not placed pursuant to Department of Corrections (DOC) guidelines (whereby Designated Offenders are returned to their home community) to establish a Permanent Residence or Temporary Residence within two thousand five hundred (2,500') feet of a Prohibited Location.

(b) It is unlawful for any Designated Offender placed in compliance with Department of Corrections (DOC) guidelines (whereby Designated Offenders are returned to their home community) to establish a Permanent Residence or Temporary Residence within five hundred (500') feet of a Prohibited Location.

(c) No Designated Offenders shall establish a Permanent Residence or Temporary Residence within a two thousand five hundred (2,500') foot radius of an existing Permanent Residence or Temporary Residence of another Designated Offender.

(2) **Notification.** A Designated Offender must notify the Town Clerk/Treasurer in writing a minimum of three (3) days prior to establishing either a Permanent Residence or Temporary Residence within the Town of Somers on a form provided by the Town.

(3) **Prohibited Activity.** It is unlawful for any Designated Offender to participate in a holiday event involving children under eighteen (18) years of age. 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 section.

(4) **Determination of Minimum Distance Separation.** For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the Permanent

Residence or Temporary Residence of a Designated Offender to the nearest outer property line of a Prohibited Location.

(5) **Exceptions.** A Designated Offender residing within a Prohibited Location as described in Section 23.01(B) shall not be in violation of this ordinance if any of the following apply:

- (a) The Designated Offender established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Section 301.45, Wisconsin Statutes, before the effective date of this Ordinance.
- (b) The Designated Offender is a minor and is not required to register under Sections 301.45 and 301.46, Wisconsin Statutes.
- (c) The Prohibited Location situated within two thousand five hundred (2,500') feet of the person's Permanent Residence was opened or established after the Designated Offender established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Section 301.45, Wisconsin Statutes.
- (d) The residence is also the primary residence of the Designated Offender'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.

(D) **Property Owners Prohibited From Renting Real Property To Certain Sexual Offenders and Sexual Predators.** It shall be unlawful for any property owner to lease or rent any place, room, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Permanent Residence or Temporary Residence by any person prohibited from establishing a Permanent Residence or Temporary Residence therein pursuant to this ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a Prohibited Location zone as defined in Section 23.01(B). Notwithstanding the exception set forth in Section 23.01(C)(5)(a), it shall be unlawful for a property owner to renew a leasehold interest established prior to the effective date of this Ordinance, whether the leasehold interest is on a month-to-month basis or for a definite term, for a period beyond six (6) months from the effective date of this Ordinance.

(E) **Severability.** Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.

(F) **Penalties.** Any person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a

period not to exceed ninety (90) days. Each day such violation continues shall be considered a separate offense.