

**TOWN OF SAMPSON
CHIPPEWA COUNTY
STATE OF WISCONSIN
ORDINANCE 2023-01**

**AN ORDINANCE DESIGNATING RESIDENCY REQUIREMENTS IN
THE TOWN OF SAMPSON CHIPPEWA COUNTY, WISCONSIN
FOR INDIVIDUALS WHO HAVE COMMITTED SEX CRIMES**

The Town Board of the Town of Sampson at a duly-noticed meeting with quorum present and voting, hereby ordains the following:

A. Purpose.

This chapter is a regulatory measure aimed at protecting the health and safety of children in the Town of Sampson from the risk that convicted sex offenders may re-offend in locations close to their residences. The Town finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders re-enter society, they are much more likely than any other type of offender to be rearrested for a sex crimes or sexual assault, according to national data and research. Given the high rate of recidivism for sex 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, in addition to the protections afforded by state law, near schools, daycare centers and other places children frequent. The Town finds and declares that in addition to schools and daycare centers, children congregate or play at public parks, beaches, and other locations within the Town.

B. Definitions.

As used in this chapter and unless the context otherwise requires:

1. "Child" means a person under the age of 16.
2. "Children" means two or more persons under the age of 16.
3. "Designated Offender" means:
 - a. Any person who is required to register under Wis. Stat. Section 301.45 for any Sexually Violent Offense against a child or Crime Against Children; or
 - b. Any person who is required to register under Wis. Stat. Section 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. Section 301.46(2) and (2m).

4. "Domicile" means: an individual's fixed and permanent residence where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return; provided, however, that no individual may have more than one domicile at any time. A residence being used for any special or temporary purpose is not considered a domicile.
5. "Residence" means: the place where a person sleeps, abodes, lodges or which qualifies as a residence on a permanent or regular basis under the holdings of the Wisconsin Supreme Court, and which may include more than one location, and may be mobile or transitory. For purposes of this definition, regular basis means fourteen (14) or more consecutive days and regular basis means fourteen (14) or more aggregate days during a calendar year and four (4) or more days in any respective month. An individual may have more than one residence.
6. "Sexually Violent Offense" means: the same as defined in Wis. Stat. Section 980.01(6).
7. "Crime Against Children" means any of the following offenses established by Wisconsin Statutes or comparable laws of any State or Federal government containing the same elements for conviction:

- § 940.225(1), First degree sexual assault;
- § 940.225(2), Second degree sexual assault;
- § 940.225(3), Third degree sexual assault;
- § 940.225(3m), Fourth degree sexual assault;
- § 940.22(2), Sexual exploitation by therapist;
- § 940.30, False imprisonment – victim was a minor and not the offender's child;
- § 940.31, Kidnapping – victim was a minor and not the offender's child;
- § 944.06, Incest;
- § 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;
- § 948.085, Sexual assault of a child in substitute care;
- § 948.09, Sexual intercourse with a child age 16 or older;
- § 948.095, Sexual assault of a student by school instructional staff or volunteer;
- § 948.10(1)(a), Exposing genital, pubic area, or intimate parts;
- § 948.11(2)(a) or (am), Exposing child to harmful material – felony sections;
- § 948.12, Possession of child pornography;
- § 948.13, Convicted child Designated Offender working with children;
- § 948.14, Registered Designated Offender and photographing minors;

§ 948.30, Abduction of another's child;
§ 971.17, Not guilty by reason of mental disease – of an included offense;
§ 975.06, Sex Crimes Law, commitment.

C. Residency Restrictions.

1. In the absence of a court order specifically exempting a Designated Offender from the residency restriction contained in this section, a Designated Offender shall not reside within one thousand five hundred (1,500) feet of the real property comprising any of the following:
 - a. Any facility for children (which means a public or private school, a group home, as defined in Section 48.02(7), Stats., a residential care center for children and youth, as defined in Section 48.02(15d), Stats., a shelter care facility, as defined in Section 48.02(17), Stats., a foster home, as defined in Section 48.02(6), Stats., a day care center licensed under Section 48.65, Stats., a day care program established under Section 120.13(14), Stats., a day care provider certified under Section 48.651, Stats., or a youth center, as defined in Section 961.01(22), Stats.); and/or
 - b. Any facility used for:
 - i. A public park, parkway, parkland, park facility;
 - ii. A public swimming pool;
 - iii. A public library;
 - iv. A recreational trail;
 - v. A public playground;
 - vi. A school for children;
 - vii. Athletic fields used by children;
 - viii. A movie theater;
 - ix. A licensed daycare center;
 - x. Any specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school;
 - xi. A public or private golf course or range;
 - xii. Aquatic facilities open to the public; and
 - xiii. A beach open to the public
2. The distance shall be measured from the closest boundary line of the real property supporting the residence of a Designated Offender to the closest real property boundary line of the real property subject to the enumerated uses in Section C.1. above.
3. In addition to and notwithstanding the foregoing, but subject to Paragraph D below, no Designated Offender shall be permitted to reside in the Town of Sampson unless such person was domiciled in the Town of Sampson 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.

4. No person shall knowingly sell or rent a residential property to a Designated Offender if the property is located in such a manner that the Designated Offender, by residing at the property, will be in violation of the Section C.1. above.

D. Residency Restriction Exceptions.

A Designated Offender residing within one thousand five hundred (1,500) feet of the real property comprising any of the uses enumerated in Section C.1 above, does not commit a violation of this chapter if any of the following apply:

1. The Designated Offender was domiciled within one thousand five hundred (1,500) feet of real property subject to the enumerated uses in Section C.1., above, prior to the effective date of this ordinance; provided, however, that if the Designated Offender was then subject to Wis. Stat. § 301.45, the Designated Offender must have also reported and registered the residence pursuant to Wis. Stat. § 301.45 prior to such date to take advantage of the exception;
2. The Designated Offender is a minor, or ward under guardianship and is not required to register under Wis. Stat. §§ 301.45 and 301.46;
3. The real property subject to the enumerated uses in Section C.1., above began after the Designated Offender had established the Domicile and reported and registered the residence if required pursuant to Wis. Stat. § 301.45;
4. The Designated Offender is subject to an active court order to serve a sentence or is otherwise involuntarily required to reside in a jail, prison, juvenile facility, or other correctional institution or mental facility within real property subject to the enumerated uses in Section C.1., above;
5. The real property subject to the enumerated uses in Section C.1., above also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:
 - a. Entrance and presence on the property may occur only during hours of worship or other religious program or service.
 - b. The person may not participate in any religious education programs that include individuals under the age of 18;
6. The real property subject to the enumerated uses in Section C.1., above supports a use lawfully attended by the Designated Offender's natural or adopted child or children, which child's use reasonably requires the attendance of the Designated Offender; provided, that entrance and presence on the property occurs only during hours of activity related to the use of the child or children;

7. The real property subject to the enumerated uses in Section C.1., above also supports a polling location in a local, state or federal election, subject to the following conditions:
 - a. The Designated Offender is eligible to vote.
 - b. The polling location is the designated polling location for the Designated Offender.
 - c. The Designated Offender casts his or her ballot with whatever usual and customary assistance is available and vacates the property immediately after voting;
8. The real property subject to the enumerated uses in Section C.1., above also supports a school lawfully attended by the Designated Offender as a student; provided, that the Designated Offender may only remain on the property at such times that are reasonably required for his or her educational purposes;
9. The real property subject to the enumerated uses in Section C.1., above also supports a police station, Town Hall, or other governmental building, provided the Designated Offender vacates the property immediately after completing the activity that allowed his or her participation and presence at the property; and
10. The Designated Offender is subject to an order for supervised release under Wis. Stat. § 980.08.

E. Loitering.

1. It shall be unlawful for any person defined as a Designated Offender to loiter or prowl, in the locations enumerated in Section C.1., in a place, at a time, or a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.
2. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct at the locations enumerated in Section C.1. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

3. Loitering exceptions: The prohibitions set forth in this Section shall not apply where the Designated Offender was accompanied by his or her parent, guardian, or other adult person having his or her care, custody or control, or where that Designated Offender was exercising first amendment rights protected by the United States Constitution or Wisconsin Constitution, including freedom of speech, the free exercise of religion, and the right of assembly.

F. Violations and Penalties.

Violation of any provision of this chapter or any order, rule or regulation made herein shall be subject to a forfeiture not exceeding \$200. The Town may also seek equitable relief. Each day a person is in violation of this chapter constitutes a separate violation. Additionally, upon determination by the Town that such violation interferes substantially with the comfortable enjoyment of life, health, and safety of another person in the Town, the matter shall be referred to the town attorney and the town attorney shall bring an action in the name of the Town in circuit court to permanently enjoin such residency as a public nuisance.

G. Appeals; Sex Offender Residence Board.

1. Sex Offender Residence Board: The above requirements may be waived upon approval of the Sex Offender Residence Board through appeal by the affected party. Such appeal shall be made to the Town Clerk, who shall forward the request to the Sex Offender Residence Board, which shall receive reports from the Sheriff's Department on such appeal. 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 Board and/or the Chippewa County Sheriff's Department for their information and action. A written copy of the decision shall be provided to the affected party.
2. Membership: The Board shall consist of three members, two of whom shall constitute a quorum. One member shall be a representative of the Town Board. One member shall be a representative of the Parks, Recreation, Tourism & Land Use Planning Commission. One member shall be an at-large citizen representative. The Town Chair shall annually, between the last Monday of April and the first Monday of May, appoint, in writing to be filed with the Town Clerk one member for a term of three years, subject to confirmation by the Town Board.

H. 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.

I. Effective Date.

The Town Clerk shall properly post or publish this ordinance as required under Wis. Stat. § 60.80. This ordinance is effective on publication or posting.

Adopted this 12th day of October, 2023.

Darla Butterfield, Chairperson

Jack Christenson, 1st Supervisor

Kevin Haller, 2nd Supervisor

Attest:

Louise Cody

Louise Cody, Clerk/Treasurer