

Ordinance Amendment

Village of Forestville

Door County, Wisconsin

Ordinance No. 2025-01

Amending Village of Forestville Ordinance No. 341 entitled, Sex Offenders

The Village Board of the Village of Forestville pursuant to its authority under Section [§ 61.34 Wis. Stats. does hereby Amend (Repeal / Replace) the Village of Forestville [Sex Offender Ordinance] and does ordain as follows:

§ 341-1. Authority.

This article is adopted pursuant to the authority granted in Wis. Stats. § 61.34.

§ 341-2 **Child safety areas.**

[Amended 10-20-2025 by Ord. No. 2025-01]

A. Recitals.

(1) Whereas, the Village of Forestville Board of Trustees held a meeting open to the public and reviewed and discussed this article as well as the following written materials:

(a) "Recidivism of Adult Sexual Offenders." U.S. Department of Justice, July 2015, SOMAPI (Sex Offender Management Assessment and Planning Initiative); and

(b) "An Overview of Sex Offender Management." July 2002, U.S. Department of Justice, SCOM Center for Sex Offender Management; and

(c) "There Goes the Neighborhood? Estimate of the Impact of Crime Risk on Property Values from Megan's Laws." May 2006, National Bureau of Economic Research; and

(d) Order and Opinion of the Honorable J.P. Stadtmueller of the United States District Court, Eastern District of Wisconsin, in Hoffman, et al. v. Village of Pleasant Prairie, Case No. 16-CF-697-JPS.

(e) Official map showing prohibited locations as defined by this chapter. (1000')

(2) Whereas, the Village has determined that, in light of the documents referenced above, it is in the interest of the public health, safety, and general welfare to establish residency restrictions for someone convicted of certain sexual offenses.

B. Findings and intent.

(1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the safety of the public. Sexual offenders are likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(2) It is the intent of this chapter to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village by prohibiting sexual offenders and sexual predators from loitering or establishing a permanent residence in locations where children regularly congregate in concentrated numbers.

(3) This chapter is a regulatory measure aimed at protecting the health and safety of children in the Village from the risk that convicted sex offenders may reoffend in locations close to their residences. The Village finds and declares that repeat sexual offenders who use physical violence and sexual offenders who prey on children are sexual offenders who present an extreme threat to the public safety and the health of children. 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 ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and the community where they reside, while incalculable, clearly exorbitant. It is further believed that such persons present an alarmingly high risk of re-offending once released. As such, the Village hereby establishes regulations that restrict certain offenders from residing or congregating in areas that are at or near where there is a high concentration of children in order to provide better protection for children in the Village by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism.

(4) It is not the intent of the Village to punish sex offenders, 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 prohibiting sexual offenders and sexual predators from loitering or establishing temporary or permanent residences in locations where children regularly congregate in concentrated numbers, wherein, due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of re-offense, there is a compelling need to protect children where they congregate or play in public places.

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

CHILD or CHILDREN

A person under the age of 18.

DESIGNATED OFFENDER

Any person who is required to register under Wis. Stat. § 301.45. This definition does not include a person who is released under Wis. Stat. § 980.08 if that person is subject to supervised release under Wis. Stat. Ch. 980, the person is residing where he or she is ordered to reside under Wis. Stat. § 980.08, and the individual is in compliance with all court orders issued under Wis. Stat. Ch. 980.

LOITERING

Whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

MINOR

A person under the age of 17.

PERMANENT RESIDENCE

A place where a person abides, lodges, or resides, without any present intent to move, and to which, when absent, the person intends to return. For purposes of this section, if a person abides, lodges, or resides, for 14 days or more in a calendar year, it is the person's permanent residence.

PROTECTED LOCATION

Any athletic fields, day-care center, library, park, private places, playground, recreational trail, school property, swimming pool, or any other place designated in the map adopted by the Village under this section as a place where children are known to congregate. The defined terms included in the definition of protected location are:

(1) ATHLETIC FIELDS

Fields used by children for organized sporting activities. This definition includes all public athletic fields and private athletic fields if they are open to the public.

(2) DAY-CARE CENTER

A facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before- and after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).

(3) LIBRARY

Any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.

(4) PARK

Any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach. "Park" shall also mean any privately owned neighborhood parks and open spaces where children congregate such as those owned by a homeowners' association of a subdivision.

(5) PLAYGROUND

Any public outdoor area set aside for recreation and play and includes any area with play ground equipment, including, but not limited to, swings, slides, sandboxes, and seesaws.

(6) PRIVATE PLACES

A property owned by a private person or entity but open to the public to provide a service and where children regularly congregate, whether supervised or unsupervised. For example, Jump Around Gymnastics located in the Village.

(7) SCHOOL PROPERTY

Any public school as defined by Wis. Stat. § 115.01(1); a private school as defined by Wis. Stat. § 115.001(3r); a charter school as defined by Wis. Stat. § 115.001(1); a specialty school, including, but not limited to, a Montessori school.

(8) SWIMMING POOL

Where children swim or wade in a pool or other aquatic facility held open for use by the public or where no lifeguard is on duty and children are known to congregate.

(9) RECREATIONAL TRAIL

A trail where children regularly walk, ride bicycles, or ride horses, and that is dedicated to the public for recreational purposes.

TEMPORARY RESIDENCE

A place where the person abides, lodges, or resides for a period of less than 14 days in the aggregate during any calendar year and that is not the person's permanent address, or a place where the person abides, lodges, or resides for a period of four or more days in any month and that is not the person's permanent residence.

D. Sexual offender and sexual predator residency, loitering and other activities, prohibitions; penalties; exceptions.

(1) Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1000 feet of any protected location.

(2) Prohibited activity. It is unlawful for any designated offender to loiter within 1000 feet of any protected location.

(3) Measurement of distance.

(a) 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 to the nearest outer property line of a protected location.

(b) The Village will maintain an official map showing prohibited locations as defined by this chapter. The map will be updated at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.

(4) Penalties. A person who violates this section shall be punished by a forfeiture not exceeding \$500. Each day a person violates this chapter constitutes a separate violation. The Village may also seek equitable relief.

(5) Exceptions. A designated offender residing within a prohibited location as described in Subsection **D(1)** does not commit a violation of this section if any of the following applies:

(a) The person established the permanent residence and reported and registered the residence pursuant to Wis. Stat. § 301.45 before May 20, 2024.

(b) The person is a minor and is not required to register under Wis. Stat. §§ 301.45 or 301.46.

(c) The protected location within 1000 feet of the person's permanent residence was opened after the person established the permanent residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.

(d) The residence is also the primary residence of the person's spouse or domestic partner provided that such spouse or domestic partner established the residence at least one year before the designated offender established residence at the location.

(e) In such cases involving a juvenile placed in accordance with this exception, when the juvenile turns 18 years of age, the juvenile may continue to reside at the already established permanent residence.

(f) The person is a designated offender that has been adjudicated a sexually violent person pursuant to Wis. Stat. Ch. 980, if the designated offender is subject to supervised release under Wis. Stat. Ch. 980, the designated offender is residing where he or she is ordered to reside under Wis. Stat. § 980.08, and the sex offender is in compliance with all court orders issued under Wis. Stat. Ch. 980.

E. Appeal.

(1) A designated offender may seek an exemption from this section by appealing to the Sex Offender Appeals Board (the "appeals board").

(2) The makeup of the appeals board members and terms of the members shall be established in a policy adopted by the Village Board.

(3) The appeals board shall approve an official appeal form. Any designated offender seeking an exemption (an "applicant") shall complete this official form and submit it to the Village Clerk, who shall forward it to the appeals board. The Village Clerk shall post and/or publish the notice of every meeting of the appeals board as required by law. In addition, at least seven days prior to any hearing before the appeals board, the Village Clerk shall provide notice of such hearing by personal service or certified mail to the owner of the property listed in the appeal form (if not the applicant) and publish such notice on the Village's website.

(4) The appeals board shall hold a hearing within 30 days of an applicant filing an appeal to conduct an individual risk assessment in each case, during which the appeals board may review any pertinent information and may accept oral and written statements from any person. The appeals board shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The appeals board shall also consider any oral, emailed, and written statements from any person at the hearing or received in advance of the hearing. The appeals board shall consider the specific facts and circumstances of each applicant and determine whether the applicant presents a threat to public safety at that proposed location. The appeals board shall consider factors which may include, but are not limited to, the following:

- (a) Circumstances surrounding the offense.
- (b) Relationship of offender and victim.
- (c) Presence or use of force.
- (d) Presence of enticement.
- (e) Need to protect victim or similarly situated individuals.
- (f) Current dangerousness of the offender.
- (g) Proximity in time from original offense.
- (h) Any criminal offenses or rule violations committed since original offense.
- (i) Time out of incarceration.
- (j) Current supervision status by the department of corrections.
- (k) Counseling and treatment history.
- (l) Credibility of offender.
- (m) Remorse.
- (n) Proximity of proposed residence to a child safety zone.
- (o) Support network of offender near proposed residence.
- (p) Alternative options for housing.

(5) The appeals board shall decide by majority vote whether to grant, conditionally grant, or deny an exemption. The appeals board may condition an exemption upon the applicant residing at a certain address or for a limited period of time. The appeals board shall provide a written copy of the decision containing the reasons therein for its decision to the applicant, the Door County Sheriffs Department, and the Village Clerk. The applicant may appeal a decision of the appeals board to the Door County Circuit Court within 30 days of the issuance of the final decision. The review shall be a review by certiorari.

F. Severability. The provisions of this chapter shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this chapter irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this chapter or the application to any person or circumstance is held invalid, the remainder of the chapter or the application of such other provisions to other persons or circumstances shall not be affected.