

CHAPTER 21

DESIGNATED SEX OFFENDERS RESTRICTIONS

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SEX OFFENDER RESTRICTIONS

CHAPTER 21

Section 21.01. FINDINGS AND INTENT: This Chapter is a regulatory measure aimed at protecting the health and safety of children and youth in the Village of River Hills from the risk that convicted sex offenders may re-offend in locations close to their residences and against child victims. 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 need to protect children and youth where they congregate or play in public places in addition to the protections afforded by state law near schools, day care centers and other places children and youth frequent. The Village Board also finds and declares that in addition to schools and day care centers, children and youth congregate or play at parks, pools and other public and private places of enrichment activities, creation, entertainment and amusement. Therefore, finding that sex offenders are a serious threat to public safety as indicated above, the Village Board hereby declares the residency or presence of sex offenders in proximity to public and private places where children and youth may congregate or frequent under circumstances proscribed in this ordinance to be a public nuisance.

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 creating areas around locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from residing and loitering.

Section 21.02. DEFINITIONS: The following terms shall be defined as follows in this chapter and the singular includes the plural and the plural includes the singular:

- A. “Child” means a person under the age of eighteen (18) years.
- B. “Offender” shall mean:
 - 1) Any person who is required to register under s. 301.45 Wis. Stats., for any offense against a child or any person who is required to register under s. 301.45 Wis. Stats., and who is subject to the Special Bulletin Notification process set forth in s. 301.46(2) and (2m) Wis. Stats.
 - 2) Any person subject to the sex crimes commitment provisions of s. 975.06 Wis. Stats.,
 - 3) Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under s. 971.17(1j) Wis. Stats.
- C. “Permanent residence” shall mean a place where a person abides, lodges, or resides

for fourteen (14) or more consecutive days.

D. “Temporary residence” shall mean a place where a 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 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 and is not the person’s permanent address.

E. “Original domicile” means the offender’s true, fixed and permanent home, to which the offender intends to return and remain even though currently residing elsewhere.

Section 21.03 RESIDENCY RESTRICTIONS

A. Restriction. Restriction. An offender shall not establish a permanent or temporary residence within two thousand (2,000) feet of any of the following:

- 1) Private or public schools;
- 2) Public park, parkway, parkland, or nature preserve;
- 3) Private or public clubs or facilities where golf, tennis and swimming pool facilities are used by children;
- 3) Recreational trail;
- 5) Public library;
- 6) Licensed daycare center, as defined in s. 48.65 Wis. Stats.;
- 7) Specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school;
- 8) Group home for children, as defined in s. 48.02(7) Wis. Stats.;
- 9) Residential care center for children, as defined in s. 48.02(15d) Wis. Stats.

B. Measuring Distance and Map of Restricted Locations. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to nearest outer property line of the establishments listed above in subsection (A). The Village Clerk shall maintain an official map showing prohibited locations as defined by this section. The Village Clerk shall update the map at least annually to reflect any changes in the prohibited areas.

C. Exceptions. An offender residing within a prohibited area as described in subsection (A) does not commit a violation of this section if any of the following apply:

1) The offender is required to serve a confined sentence at a jail or other correctional institution or facility located within a prohibited area.

2) The offender established a permanent or temporary residence and reported and registered the residence pursuant to s. 301.45 Wis. Stats., before the effective date of this section. Once said offender no longer resides in the restricted area, another convicted sex offender may not establish residency in said residence in the restricted area.

3) The prohibited area described in subsection (A) that lies within two thousand (2,000) feet of the offender's permanent or temporary residence was opened after the offender established the permanent or temporary residence and reported and registered the residence pursuant to s. 301.41 Wis. Stats.

4) The offender is a minor or ward under guardianship.

D. Property owners prohibited from renting real property to certain offenders.

1) It is unlawful to let or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent or temporary residence by any offender prohibited from establishing such permanent or temporary residence pursuant to this ordinance.

E. Exception For Placements Under Chapter 980 of the Wisconsin Statutes. To the extent required by § 980.135, Wis. Stats., and notwithstanding the foregoing provisions of this chapter, the Village of River Hills hereby exempts and may not enforce any portion thereof that restricts or prohibits a sex offender from residing at a certain location against an individual who is released under § 980.08, Wis. Stats., or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Ch. 980, Wis. Stats., the individual is residing where he or she is ordered to reside under § 980.08, Wis. Stats., and the individual is in compliance with all court orders issued under Ch. 980, Wis. Stats. (Am. #579, 7/10/24)

F. Request for Exemption. An offender may request an exemption from the Residency Restrictions of Section 21.03. (Am. #579, 7/10/24)

1) Procedure. An offender may request an exemption from this section by submitting a written request for exemption, including any pertinent rationale for an exemption, to the River Hills Police Department prior to establishing a residence that would be in violation of this section or within 15 days after notification that the person is in violation of this section. The chief of police or their designee shall conduct a review of the request for an exemption using any pertinent information and the criteria set forth in subsection (2) below. The chief of police or their designee has the authority to approve, approve an exemption subject to necessary conditions (hereafter "conditional exemption"), or deny the request. The chief of police or their designee shall issue the decision within 30 days of receiving the request for exemption and shall provide a written copy of that decision to the offender, the Village Clerk, and the Village Attorney. Any request for

an exemption which has not been approved, approved for a conditional exemption, or denied by the chief or their designee within 30 days of the request shall be deemed to be denied for the purposes of this section.

2) The chief of police or their designee shall base their decision upon any factors related to the Village's interest in promoting, protecting, and improving the health, safety, and welfare of the community, including the Findings and Intent set forth in Section 21.01 of this chapter, and including but not limited to:

- a. The nature of the offense causing the appellant to be a designated offender including the relationship of the offender to the victim, the present location of the victim if known, the presence or use of force, and the presence of enticement.
- b. Police reports related to the predicate offense if available.
- c. Proximity of the requested residence to a restricted location or child safety zone.
- d. The age of the offense, offender, and victim.
- e. Recommendation of the probation or parole officer if one exists.
- f. Relevant information from any investigation of the police department.
- g. Recommendation of any treatment practitioner.
- h. Proposals for safety measures and assurances by the person.
- i. Conditions to be placed on any exception from the requirements of this section.
- j. Support systems in place for the offender including relationship with any persons who the offender will be living with at the requested location.
- k. Statements of the surrounding community or victim.
- l. Treatment, sobriety, or rehabilitative measures taken by the person.
- m. The person's current employment or social activities.
- n. The person's criminal history.
- o. The person's level of credibility and remorse.
- p. Alternative options for housing.
- q. The need to protect the victim or similarly situated individuals.
- r. Any other relevant information.

3) The offender or any aggrieved person may contest the approval, conditional exemption, or denial of the request for exemption decision under subsection 1) above by submitting a written request for a hearing to the chief of police within five (5) business days of service of the determination. The chief or their designee will convene a hearing promptly, with written notice to all persons that are known to be interested. At the hearing, the offender, or any interested party shall have the opportunity to present evidence and sworn testimony as to why the exemption, conditional exemption or denial should be affirmed, modified, granted, or denied. The chief or their designee shall issue a written decision within 14 days of the close of such hearing. That decision shall be a final decision for purposes of any further appeal and is subject to certiorari review by the Circuit Court of Milwaukee County. A transcript of the proceedings by a court reporter shall be created and made available to the appellant or any requesting party for the actual and direct costs of creating the transcript. The Village clerk shall maintain the record of the proceedings, and make such transcript, and any other matters placed in the record of the hearing, available as the record on appeal.

4) A conditional exemption may include, but is not limited to, the following conditions or restrictions:

- a. Curfew restrictions.
- b. Cohabitant restrictions or requirements.
- c. Sobriety restrictions.
- d. Conduct restrictions.
- e. Residency restrictions.

5) A written copy of the decision shall be provided to the offender in person or by first-class mail at the offender's last-known address. The offender must consent to the terms of a conditional exemption for the conditional exemption to be valid. The offender will have 14 days from the date the written conditional exemption is issued to accept and return a signed copy to the chief or their designee, or the conditional exemption will be deemed void, and the appeal denied.

6) If an exemption or conditional exemption is granted by the chief or their designee, that exemption will only apply to the offender who had applied for the exemption at the requested residence and shall not be transferable to any other person or to any other location.

7) An exemption or conditional exemption issued by the chief or their designee may be revoked by the chief or their designee if the offender is found to have violated the conditions or there is probable cause to believe the person has committed (an) additional act(s), which had occurred either before or after the exemption or conditional exemption was issued, that would cause a person to be classified as a designated offender. The chief or their designee shall provide written notice to the offender that the exemption or conditional exemption has been revoked. This notice shall be deemed delivered if hand delivered or sent by first class mail to the

offender's last known address. The revocation of an exemption may be appealed to the Chief or his designee following the same procedures for requesting an exemption set forth above.

8) For the purposes of this section, pursuant to Wis. Stat. § 68.16, the Village of River Hills is specifically electing not to be governed by Chapter 68 of the Wisconsin Statutes.

Section 21.04 CHILD SAFETY ZONE RESTRICTIONS

A. “Child Safety Zones” shall include any real property upon which there exists any route, path, area, or facility used for or which supports a use of:

- 1) Private or public schools;
- 2) Public park, parkway, parkland, or nature preserve;
- 3) Private or public clubs or facilities where golf, tennis and swimming pool facilities are used by children;
- 4) Recreational trail;
- 5) Public library;
- 6) Licensed daycare center, as defined in s. 48.65 Wis. Stats.;
- 7) Specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school;
- 8) Group home for children, as defined in s. 48.02(7) Wis. Stats.;
- 9) Residential care center for children, as defined in s. 48.02(15d) Wis. Stats.

B. Restriction. It shall be unlawful for any offender to loiter or prowl in any child safety zone at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. 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 police officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this subsection, afford the actor an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police 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 police officer at the time, would have dispelled the alarm.

C. Map of Restricted Locations. The map required under 21.03 (B) above shall be used for depicting the child safety zones as defined by this section. The Village Clerk shall update the map at least annually to reflect any changes in the restricted locations.

D. Exceptions. This section shall not apply where the offender is a minor accompanied by and under the care of his or her parent, guardian or other adult person having his or her care, custody or control, or where the offender was exercising First Amendment rights protected by the U.S. Constitution or Wisconsin Constitution, including freedom of speech, the free exercise of religion, or the right of assembly.

Section 21.05 PENALTIES

A. Any person, firm or corporation found guilty of the violation of any provision of this Chapter, unless another penalty is therein provided, shall be subject to a forfeiture of not less than Ten (\$10.00) Dollars nor more than Two Thousand (\$2,000.00) Dollars together with the costs of the action; and in default of payment thereof, shall be subject to imprisonment in the County Jail or House of Correction of Milwaukee County until such forfeiture and costs, together with any subsequent costs have been paid, but in any event, not to exceed ninety (90) days. Each day a violation continues constitutes a separate offense.

B. Violations of this Chapter shall constitute a public nuisance, which, in addition to any other penalties shall also be subject to action by the Village to abate and enjoin such nuisance. (Cr. Ord # 522, 09/17/14)