

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.