

CHAPTER 400
SEXUAL OFFENDERS

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Residency Restrictions

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§400-1 Findings and Intent

- A. 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 public safety. 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, while incalculable, clearly exorbitant.
- B. It is the intent of this chapter not to impose a criminal penalty, but rather to serve the Village of Kimberly'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 sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

§400-2 Definitions

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

CHILD - means a person under the age of 16 years for purposes of this chapter.

DESIGNATED OFFENDER - means any person who is required to register under Wis. Stats. § 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stats. § 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stats. § 301.46(2) and (2m).

MINOR - means a person under the age of 17 years.

PERMANENT RESIDENCE - means a place where the person abides, lodges, or resides for 14 or more consecutive days.

TEMPORARY RESIDENCE - means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

§400-3 Designated offender residence, prohibition; penalties; exceptions.

- A. Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village as a place where children are known to congregate. This limiting designation is not limited to the Village. EXAMPLE: a designated offender is restricted from living in the Village of Kimberly if a park in the Village of Combined Locks is within 2,000 feet of the proposed residence.
- B. Prohibited activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the designated offender is the parent or guardian of the children involved, and no nonfamilial children are present, are exempt from this section. Participation is to be defined as actively taking part in the event.
- C. Measurement of distance.
- (1) 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 nearest outer property line of a school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village where children are known to congregate.
 - (2) The Village clerk shall maintain an official list of locations where children regularly congregate in concentrated numbers and an official map showing prohibited locations as defined by this section. The clerk shall update the list and map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.
- D. Penalties. A designated offender who violates this chapter shall be punished by a forfeiture not exceeding \$500.00. Each day a designated offender maintains a residence in violation of this chapter constitutes a separate violation. The Village may also seek equitable relief.
- E. Exceptions. A designated offender residing within a prohibited area as described in section (c)(1) of this chapter does not commit a violation of this chapter if any of the following apply:
- (1) The designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45 before the effective date of the ordinance from which this chapter is derived.
 - (2) The designated offender is a minor and is not required to register under Wis. Stats. §§ 301.45 or 301.46.
 - (3) The school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village as a place where children are known to congregate within 2,000 feet of the designated offender's permanent residence was opened after the designated offender established

the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45.

- (4) 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 years before the designated offender established residence at the location.

§400-4 Property owners prohibited from renting real property to designated offenders; penalties.

- A. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any designated offender prohibited from establishing such permanent residence or temporary residence pursuant to this chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in section §400-3 C (1).
- B. A property owner's failure to comply with the provision of this section shall constitute a violation of this chapter, and shall subject the property owner to the code enforcement provisions in section §400-3 D.

§400-5 Sex Offender Residence Board Established for Appeals.

- A. This section establishes a Sex Offender Residence Board which shall consist of five citizens, three of which shall establish a quorum. Members of the Sex Offender Residence Board shall serve five year staggered terms established by appointment at the Village Board's annual organizational meeting in May. At the creation of the Sex Offender Residence Board, the Village President shall appoint one member to a five year term, one member to four year term, one member to a three year term, one member to a two year term, and one member to a one year term. The Sex Offender Residence Board shall convene as requested through appeal of a designated offender and shall consider, but is not limited to consideration of the following: appeal information from the designated offender, nature of the offense, length of time since conviction, location of desired residence, input from residents, and recommendation of the Fox Valley Metropolitan Police Department.
- B. One or more of the requirements of this chapter may be waived upon approval of the Sex Offender Residence Board through appeal by the designated offender, if the Board finds that such waiver will not be detrimental to the health, safety, and welfare of persons this chapter is intended to protect, based upon unique circumstances applicable to the designated offender. Such appeal shall be made in writing to the Village clerk's office, setting forth facts in support of the appeal. The clerk shall forward the request to the Fox Valley Metropolitan Police Department, which shall generate a recommendation for consideration by the Sex Offender Residence Board.
- C. The clerk shall give at least 7 days written notice to the designated offender of the date and time of a hearing before the Sex Offender Residence Board at which time the designated offender may present evidence supporting the appeal upon which the Sex Offender Residence Board may deliberate for purposes of a final decision. After deliberation, the Sex Offender Residence Board shall forward its decision, in writing, to the Fox Valley Metropolitan Police Department for their information and action. A written copy of the decision shall be provided to the designated offender.