

**CHAPTER/SECTION 401
SEX OFFENDERS
VILLAGE OF SLINGER, WASHINGTON COUNTY, WISCONSIN**

ORDINANCE NO. 04-01-2017

**AN ORDINANCE CREATING SECTION 401
RESIDENCY RESTRICTION FOR SEX OFFENDERS.**

WHEREAS, the Village Board of the Village of Slinger, Washington County, Wisconsin, deems it a priority to act in the interest of public safety within our community, particularly in the interest of our children: and

WHEREAS, according to the U.S. Department of Justice, there are a record number of convicted sex offenders living in our communities¹; and

WHEREAS, all convicted child sex offenders have proven themselves to be dangerous²; and

WHEREAS, research in this area has established sex offenders are rearrested for sex crimes four times more frequently than non-sex offenders³; and

WHEREAS, the reduction of crime and criminal recidivism are inextricably linked to public safety within our community; and

WHEREAS, the risks posed by sex offenders against children, are nationally recognized in such landmark legislation as the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; 1996 Megan's Laws; and the 2006 Adam Walsh Child Protection and Safety Act; and these risks are also recognized by legislation in every State in the United States of America including Wisconsin; and

WHEREAS, the Village Board finds that the data concerning child sex offenders is horrific and demonstrates the need for action, including the following⁴:

¹ Sex Offender Management Assessment and Planning Initiative, July 2015, *"This includes offenders returning to the community upon release from incarceration as well as offenders who are serving or who have been discharged from community-based sentences."*

² Kester, 2013 WI App 50, ¶ 30.

³ Sex Offender Management Assessment and Planning Initiative, July 2015, Langan, P., Schmitt, E., & Durose, M. (2003). *Recidivism of Sex Offenders Released From Prison in 1994*.

⁴Center for Sex Offender Management (CSOM) statistics. CSOM is a collaborative effort of the U.S. Department of Justice, Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, and these quoted statistics are from its "Fact Sheet: What You Need to Know about Sex Offenders".

- “sex crimes are unfortunately fairly common in the United States.”
- “It is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood.”
- “Children are particularly vulnerable. Approximately 67% of all victims of reported sexual assaults are under the age of 18, and more than half of these victims are under the age of 12.”
- “Most sexual offenses are committed by someone the victim knows ... or acquaintance.”
- “No single factor or combination of factors can fully explain why someone offends sexually, though some factors may combine to increase people’s tendency to offend. These factors are ... [physiological, sociocultural, developmental] and situational/circumstantial (e.g. having easy access to victims...).”
- “About 12% to 24% of sex offenders will reoffend.”

WHEREAS, the Village Board also finds these statistics of the U.S. Department of Justice to be shocking and a call to action⁵:

- “Approximately 1.8 million adolescents in the United States have been victims of sexual assault.
- “An estimated 60% of perpetrators of sexual abuse are known to the child but are not family members, e.g. family friends, babysitters, child care providers, neighbors.”

WHEREAS, the creation of Sex Offender Residency Restrictions and Safety Zones by municipal ordinance around locations where children regularly congregate is a reasonable step toward protecting our children and deterring recidivism by reducing the opportunity for new offenses within our community; and

WHEREAS, the Village Board has reviewed many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions⁶, and has been fully advised in the matter; and

⁵ U.S. Department of Justice, National Sex Offender Public Website “Facts and Statistics”

⁶ These include but are not limited to: Recidivism of sex offenders released from prison in 1994, U.S. Department of Justice, Office of Justice Programs, copyright November 2003; The final report of the Commission to Improve Community Safety and Sex Offender Accountability, of the State of Maine, dated January 2004; Sex Offender Recidivism Prediction, Correctional Service of Canada dated October 14, 2004; Recidivism of Sex Offenders, May 2001, Center for Sex Offender Management; Treating Sex Offenders, Wisconsin Lawyer Magazine, October 1994; The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review, Marcus Nieto and Professor David Jung, California Research Bureau, California State Library, August 2006; Sex Offenders: You Are Now Free to Move About the Country, and Analysis of Doe v. Miller’s Effects on Sex Offender Residential Restrictions, UMKC Law Review, Spring 2005; There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan’s Laws, Linden and Rockoff, National Bureau of Economic Research, May 2006; The Effect of Proximity to a Registered Sex Offender’s Residence on Single-Family Housing Selling Price, Goliath Appraisal Journal, July 2003; Sex Offenders, Sexually Violent Predators, Punishment, Residence Restrictions and Monitoring, California Proposition 83, Analysis by the Legislative

WHEREAS, the literature on the subject includes some studies that support the practice of imposing sex offender residency restrictions and others that are critical of the practice; and

WHEREAS, the Village Board finds it to be significant that some of the key studies that have concluded that sex offender residency restrictions have limited effectiveness have added significant qualifications to that conclusion; e.g. in “An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri,” (Huebner, et al., 2013), the authors generally do not support sex offender residency restrictions, but nevertheless find that following adoption of sex offender residency restrictions “the rate of recidivism for technical violations significantly decreased for Missouri sex offenders...” (id. at 9) and “the number of sex offense convictions did decline...” in Missouri (id. at 10); and

WHEREAS, the Village Board recognizes the merits, mentioned in some studies, of individualized consideration of the risks and benefits of residency restrictions on an offender-by-offender basis, though this assessment of risks is not a perfect science and could give rise to equal protection or other enforcement concerns; and on the local level it is important to provide clear information to those who may want to locate in the Village, including a map of available residency locations; and the Village Board finds that this desire for uniformity and clarity outweighs the desire for individualized consideration at the Village level, in general; and

WHEREAS, in review of the residency restrictions of communities throughout Washington County and its environs, the Village Board finds that many of such communities have an “original domicile restriction,” which allows each community to take back its own while not adding an additional burden of more than its own sex offenders to its community; such burdens including neighborhood and citizen concerns and responses, risks of recidivism, and potential property value impacts⁷; and

WHEREAS, if the Village of Slinger would not have an original domicile restriction, the Village would have open doors for non-resident sex offender residency when other communities have closed doors, inviting a substantial increase in child sex offender

Analyst; An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri, Huebner, et al., 2013.

⁷ Property value impacts have been noted in numerous studies, including “The Effect on Proximity to a Registered Sex Offender’s Residence on Single-Family House Selling Price,” Larsen, J., Lowery, K., & Coleman, J. (2003), *The Appraisal Journal*, 71(3), 253-65; and “Neighborhood Tipping and Sorting Dynamics in Real Estate; Evidence from the Virginia Sex Offender Registry,” Wentland, Bain, Brastow, Stoll, Waller, *Social Science Research Network*, April 2013. Property values are only one such impact. Stop it Now, a non-profit organization devoted to sex offender research, offers this advice to those concerned about sex offenders moving into a neighborhood, among others: Create a family safety plan; attend notification meetings; notify the police of suspicious activity; and don’t wait to take action for prevention. At a minimum, this heightened awareness and activity burdens the families and neighbors where sex offenders are placed, and collectively this burdens the Village staff and resources, for every Designated Offender placement.

placements, with the related adverse impacts on the health, safety and welfare of the Village and its residents; and

WHEREAS, the Village Board believes that for all but the most severe offenders, this risk of adverse impact declines as time passes following the date of a Designated Offender's offense, as the offender matures, recovers and reintegrates with society over time; and if this results in the offender being removed from the State registration list, the offender is thereby automatically removed from the Village residency restrictions; but even if State registration is required, once ten years has passed since the date on which the person was released from prison or placed on parole, probation, extended supervision or other supervised release for the sex offence, provided it is not a Class A felony against a child, the Village Board finds it is appropriate to remove the original domicile restriction and allow such reformed citizen to move into the Village of Slinger in compliance with this ordinance; and by opening this door the Village Board hopes that it is establishing a precedent for its surrounding communities to open their doors as well; and

WHEREAS, the Village Board recognizes that it cannot eliminate all risk of child sex offender re-offense, and it must balance all of the competing public policies, but intends by these regulations to strike the legislative balance that is appropriate for the circumstances of the Village of Slinger; and

WHEREAS, it is not the intent of this ordinance to banish sex offenders from residing within the Village of Slinger, and careful attention has been given to ensure that there are ample locations for sex offenders to reside within the Village of Slinger in compliance with the requirements of this ordinance:

NOW, THEREFORE, THE SLINGER BOARD OF TRUSTEES, SLINGER, WISCONSIN DOES ORDAIN AS FOLLOWS:

SECTION 401: of the Slinger Municipal Code is hereby created to read as follows:

401 RESIDENCY AND SAFETY RESTRICTIONS FOR SEX OFFENDERS

The Wisconsin Statutes govern the punishment of individuals who commit sex crimes. The Wisconsin Statutes also govern the release into the community of such individuals. The Village of Slinger has no authority or intent to intervene in either area. The Village of Slinger recognizes statutory residency restrictions and the limited exemptions enumerated in Wisconsin § 980.135 for sex offenders released pursuant to Wisconsin § 980.08.

- (1) **PURPOSE.** This ordinance is a non-punitive, civil regulatory measure aimed at protecting the public health, safety and welfare of the children and citizens of the Village of Slinger from the risk that convicted sex offenders may re-offend in locations close to their residences. The Village finds and declares that sex offenders who prey

upon children are a serious threat to public safety and it is necessary for the Village to enact reasonable measures to reduce the opportunity and minimize the risk of re-offense by protecting children where they congregate or play in public places in addition to the protections afforded by state law near schools and other places children frequent.

(2) DEFINITIONS.

- (a) **Sex Offender.** Any person who is required to register under §301.45, Wis. Stats., for any sexual offense against a child, or any person who is required to register under §301.45, Wis. Stats., and who has been designated a special bulletin (SBN) sex offender pursuant to §301.46(2) and (2m), Wis. Stats. .
- (b) **Sexually Violent Offense.** Shall have the meaning set forth in § 980.01(6).
- (c) **Prohibited Activity.** Distributing candy or other items to children or otherwise participating in trick or treat activities on Halloween, if the sex offender is not the parent or guardian of such children.
- (d) **Residence.** A place where a person sleeps, abides, lodges, or resides on a permanent or temporary basis. For purposes of this definition, a “permanent basis” means 14 or more consecutive days and a “temporary basis” means 14 or more aggregate days during any calendar year or four or more consecutive or nonconsecutive days in any month. A person may have more than one residence, and may be mobile or transitory.

(3) RESIDENCY RESTRICTION.

- (a) Except as otherwise provided in this Ordinance, a Sex Offender may not establish a permanent or temporary residence within 1,000 feet of any real property upon which there exists any of the following uses:
 - (1) A school for children.
 - (2) A public park, parkway, parkland, park facility, recreational trail or property zoned P-1 Park and Recreation district.
 - (3) A daycare licensed by the State of Wisconsin.
 - (4) A public library.
 - (5) A public playground.
 - (6) A public athletic field used by children.
 - (7) A residential care center for children.
 - (8) A public swimming pool.
 - (9) A public community center
 - (10) An aquatic facility open to the public.
 - (11) A movie theater.
 - (12) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, theater academy or music school.

(13) A youth and/or teen center.

(b) For purposes of this section, distance is to be measured in a straight line from the closest boundary line of the real property upon which the residence is located to the closest boundary line of the real property of the applicable use. If any portion of a tax parcel contains a prohibited location, the entire tax parcel shall be considered a prohibited location. If any portion of a tax parcel would constitute a prohibited location of residence under Section 3(a), the entire tax parcel shall be considered a prohibited location of residence.

(c) The Village Administrator shall maintain an official map showing the prohibited locations and safety zones within the Village. The Village Administrator shall update the map at least annually to reflect any changes in the prohibited locations and safety zones. The map shall be available in the office of the Village Clerk and posted on the Village website.

(4) **RESIDENCY RESTRICTION EXCEPTIONS.** A Sex Offender residing within an area otherwise prohibited by Sections 3 or 8 does not commit an offense if any of the following apply:

(a) The Sex Offender established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to §301.45, Wis. Stats., before the initial effective date of the relevant provision of this chapter, and the Sex Offender has resided in such Permanent Residence or Temporary Residence continuously since the effective date of this chapter, except for temporary absences of no more than thirty (30) consecutive days.

(b) The Sex Offender had established the Permanent Residence prior to the date of the relevant offense, and maintained continuous ownership or leasehold of the Permanent Residence during any jail, prison or other sentence served for the offense

(c) The prohibited location situated within 1,000 feet of the person's Permanent Residence was opened or established after the Sex Offender established the Permanent Residence and reported and registered the residence pursuant to §301.45, Wis. Stats.

(d) The residence is also the primary residence of the Sex Offender's parents, grandparents, siblings, spouse or children, provided that such parent, grandparent, sibling, spouse or child established the residence at least one year before the Sex Offender established residence at that location, subject to the following. The Sex Offender is prohibited from residing in such location if a victim of an offense giving rise to the Sex Offender's designation also resides in the residence and is a Minor, unless the Sex Offender is on probation or parole and residing with the victim is approved in writing by the

probation or parole officer; and if not on probation or parole, such location is prohibited unless approved in writing by the Slinger Chief of Police, based upon a finding that the circumstances of the offense, the Sex Offender, the victim, and all relevant information in the matter substantially eliminates the risk of re-offense against the victim.

- (e) The Sex Offender is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.
- (f) The Sex Offender is a minor or ward under guardianship and is not required to register under §§301.48 and 301.46 Wis. Stats.
- (g) The Sex Offender is temporarily hospitalized.

(5) SAFETY ZONES.

- (a) No Sex Offender may enter or be present on any real property upon which there exists any facility used for or which supports the use of:
 - (1) A school for children.
 - (2) A public park, parkway, parkland, park facility, recreational trail or property zoned P-1 Park and Recreation district.
 - (3) A daycare licensed by the State of Wisconsin.
 - (4) A public library.
 - (5) A public playground.
 - (6) A public athletic field used by children.
 - (7) A residential care center for children.
 - (8) A public swimming pool.
 - (9) A public community center
 - (10) An aquatic facility open to the public.
 - (11) A movie theater.
 - (12) Any specialized school for children, including, but not limited to a gymnastics academy, dance academy, theater academy or music school.
 - (13) A youth and/or teen center.

(6) SAFETY ZONE EXCEPTIONS.

- (a) A Sex Offender present in an area otherwise prohibited by Section 5 does not commit an offense if any of the following apply:
 - (1) The property supporting a use enumerated in Section 5 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:
 - (i) The Sex Offender does not enter the portion of the building devoted to uses enumerated in Section 5; and

- (ii) The person may not participate in any religious education programs that include individuals under the age of 18.
- (2) The property supporting a use enumerated in Section 5 also supports a use lawfully attended by the Sex Offender's natural or adopted child or children, which child's use reasonably requires the attendance of the Sex Offender, provided that entrance and presence on the property occurs only during hours of activity related to the use by the child or children and only as reasonably necessary in connection with such activity.
- (3) The property supporting a use enumerated in Section 5 also supports a polling location in a local, state, or federal election, subject to the following conditions:
- (i) The Sex Offender is eligible to vote.
 - (ii) The polling location is the designated polling location for the Sex Offender.
 - (iii) The Sex Offender casts his or her ballot with whatever usual and customary assistance is available and vacates the property immediately after voting.
- (4) The property supporting a use enumerated in Section 5 also supports a school lawfully attended by the Sex Offender as a student, provided that the Sex Offender may only remain on the property at such times that are reasonably required for his or her educational purposes.
- (5) The property supporting a use enumerated in Section 5 also supports a police station, Village Hall, or other governmental building, provided that the Sex Offender vacates the property immediately after completing the activity that required his or her presence at the property.

(7) **PROHIBITED ACTIVITY.** It is unlawful for a sex offender to participate in a prohibited activity.

(8) **ORIGINAL RESIDENCY RESTRICTION.**

Except as described in Section 4(d), above, No Sex Offender may establish a residence in the Village of Slinger unless he or she was a resident of the Village of Slinger at the time of the most recent offense that qualifies for designation as a Sex Offender. This restriction does not apply if 10 years have passed since the date on which the person was released from prison or placed on parole, probation, extended supervision or other supervised release for the sex offence , provided the Sex Offender has not been convicted of a Class A felony against a child.

(9) LOSS OF EXEMPTION OR ORIGINAL RESIDENCY.

- (a) Any Sex Offender maintaining a residence within the Village of Slinger that is exempted from the restrictions of this ordinance pursuant to Sections 4.(a),(b) or (c) shall lose the exemption if the Sex Offender's ownership or leasehold of the property ceases at any point in time, at which time the Sex Offender shall be subject to the restrictions of Section 3. This shall not be interpreted to prohibit renewal of an existing lease.
- (b) Any Sex Offender maintaining a residence within the Village of Slinger who ceases to maintain a Permanent Residence within the Village shall be subject to the terms of Section 8.

(10) SALE OR RENTAL OF PROPERTY FOR USE BY SEX OFFENDERS.

- (a) No person may sell or rent any place, structure, or part thereof with knowledge that it will be used as a residence by any Sex Offender that is prohibited from establishing residence therein by this Ordinance.
- (b) Notice to Chief of Police. A Sex Offender, and any property owner who leases or rents any place, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Permanent Residence or Temporary Residence by any person who is a Sex Offender, must each notify the Village Police Chief in writing a minimum of twenty-eight (28) days prior to establishing either a Permanent Residence or Temporary Residence within the Village. In addition, any property owner who has leased or rented any place, structure, mobile home, trailer or any part thereof as a Permanent Residence or Temporary Residence by any person who is a Sex Offender, at any time during a calendar year, shall report in writing to the Village Police Chief as to the status of the leasing or renting by the Sex Offender, including without limitation, the names of all Sex Offenders who lease or rent any portion of such place, structure, mobile home, trailer or any part thereof as of December 1 of such calendar year, the remaining lease term under the current lease for each Sex Offender, and if a Sex Offender no longer leases or rents such place, structure, mobile home, trailer or any part thereof, the date said Sex Offender no longer leased or rented such place. All such information shall be provided in writing to the Village Police Chief on or before December 31 of each calendar year.
- (c) Notice to Property Owner. A Sex Offender shall tell any property owner from whom the Sex Offender intends to lease or rent any place, structure, mobile home, trailer or any part thereof, that the Sex Offender is a Sex Offender as defined in Section 2(a), prior to entering into any lease or rental arrangement.

(11) Exception for Placements under Chapter 980 of the Wisconsin Statutes.

To the extent required by Section 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this chapter, the Village of Slinger hereby exempts and may not enforce any portion thereof that restricts or prohibits a sex offender from residing at a certain location or that restricts or prohibits a person from providing housing to a sex offender against an individual who is released under Wisconsin Statutes Section 980.08, or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Chapter 980 of the Wisconsin Statutes, the individual is residing where he or she is ordered to reside under Section 980.08 of the Wisconsin Statutes, and the individual is in compliance with all court orders issued under Chapter 980 of the Wisconsin Statutes.

(12) ENFORCEMENT.

- (a) **Injunction.** If a Sex Offender or property owner violates any provision of this chapter the Village may, in addition to all other rights and remedies allowed by law or this chapter, refer the matter to the Village Attorney to bring an action in the name of the Village in circuit court to seek a temporary restraining order, temporary injunction or permanent injunction against such Sex Offender or property owner to prevent them from violating the terms of this chapter or to take any action, or prevent any action, necessary for compliance with the terms of this chapter.
- (b) **Penalties.** Any person, firm or entity who violates any provisions of this chapter shall, upon conviction thereof, be subject to a forfeiture not to exceed One Thousand Dollars (\$1,000.00), together with the costs of prosecution, and in default of payment thereof, shall be committed to jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense. Neither the issuance of a citation nor the imposition of a forfeiture hereunder shall preclude the Village from seeking or obtaining any and all legal and equitable remedies available by law or this chapter.

(13) 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.