

ORDINANCE NO. 04-2-08

**AN ORDINANCE CREATING SECTION 9.37, CHAPTER 9,
PUBLIC PEACE & GOOD ORDER OF THE MUNICIPAL CODE OF THE
VILLAGE OF ASHWAUBENON, BROWN COUNTY, WISCONSIN
RELATING TO SEXUAL OFFENDER RESTRICTIONS**

SECTION 1. 9.37 SEXUAL OFFENDER RESIDENCY RESTRICTIONS.

(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 that 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 ordinance not to impose a criminal penalty 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 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.

(2) DEFINITIONS. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(a) Child means a person under the age of 16 for purposes of this ordinance.

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

(c) Minor means a person under the age of 17.

(d) Permanent Residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.

(e) 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 non-consecutive days in any month and which is not the person's permanent residence.

(3) SEXUAL OFFENDER AND SEXUAL PREDATOR 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 1,500 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.

(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 offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. 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 map showing prohibited locations as defined by this ordinance. The Clerk shall update the 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 person who violates this section shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this ordinance 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 (2)(a) does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. §301.45 before the effective date of this ordinance.

2. The person is a minor and is not required to register under Wis. Stat. §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 persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. §301.45.

4. The residence is also the primary residence of the person'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.

(4) PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; 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 person prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section (3)(a).

(b) A property owner's failure to comply with provision of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions in Section (3)(d) as provided in this ordinance.

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

Approved and adopted this 22nd day of April, 2008.

Jerry Menne, Village President

ATTEST:

Dawn A. Collins, Village Clerk

DATE OF PUBLICATION: April 25, 2008