ORDINANCE NO. _____

AN ORDINANCE CREATING SECTION 9.361, CHAPTER 9, PUBLIC PEACE & GOOD ORDER OF THE MUNICIPAL CODE OF THE VILLAGE OF ASHWAUBENON, BROWN COUNTY, WISCONSIN RELATING TO SEXUAL OFFENDER RESTRICTIONS

THE VILLAGE BOARD OF THE VILLAGE OF ASHWAUBENON, BROWN COUNTY, WISCONSIN, DOES ORDAIN THAT SECTION 9.361 BE CREATED TO READ AS FOLLOWS:

SECTION 1. 9.361 SEXUAL OFFENDER RESTRICTIONS

A. FINDINGS AND INTENT

1. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the Village of Ashwaubenon from the risk that sexual offenders convicted of an offense against a child may re-offend in locations close to where children congregate. Given the high rate of recidivism for sexual offenders, and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places. Therefore, the Village finds and declares that sexual offenders are a serious threat to the public safety of children if regulatory measures are not in place that prohibit their presence in specified areas designated as places children commonly congregate. The Village of Ashwaubenon finds and declares that in addition to schools and daycare centers, children congregate or play at child-oriented facilities, such as parks and playgrounds.

2. It is not the intent of this ordinance 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 children of the Village by prohibiting convicted sexual offenders from loitering or being present in specified areas around locations where children regularly congregate in concentrated numbers. It is the further intent of this ordinance to recognize that convicted sexual offenders must reenter the community, and the Village of Ashwaubenon hereby accepts that it has a responsibility to convicted sexual offenders and the surrounding area municipalities to ensure that, in addition to promoting regulatory measures aimed at protecting children, its regulatory measures are not aimed at prohibiting convicted sexual offenders from being part of this society.

B. 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:

1. Child means a person age 16 or younger for purposes of this ordinance.

2. Designated Offender means any person who is required to register under Wis. Stat.§301.45 and is under court ordered supervision by the Wisconsin Department of Corrections for any sexual offense against a child, unless the person is under the age eighteen at the time of the offense and the offender was not tried and convicted of the offense as an adult.

3. Loitering means, whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

4. Minor means a person age 17 or younger.

5. Zones:

   a. Restricted Zones: certain areas that are designated by the Village as areas children congregate, including, but not limited to, schools, parks, playgrounds, licensed day care centers, or any other place designated by the Village as a place where children are known to congregate. Restricted Zones will not expand beyond the real estate parcel or parcel(s) upon which the building, park or establishment is located that instigated the Village's designation of such Restricted Zone, but will include contiguous parcels used for ancillary purposes, such as an athletic field located adjacent to a school.

   b. Loiter Fee Zones: the 200 foot radius surrounding all Restricted Zones.

   c. Restricted Zone Maps: an official map, maintained by the Village, showing Restricted Zones designated in Red and Loiter Free Zones designated in Yellow. (the "Restricted Zone Map"). The Village shall update the Restricted Zone Map at least annually to reflect any changes in the location of Restricted Zones and Loiter Free Zones. Restricted Zone Maps will be available at the Village's office and on the Village's official web site.

C. PROHIBITED LOCATION AND/OR ACTS

1. Restricted Zones:

   a. Restricted Zone Restrictions: It is unlawful for any Designated Offender to be physically present within a Restricted Zone under any of the following circumstances:

      1) When children are present or are reasonably presumed or known to be present; or

      2) Monday through Friday, in a school or day care center Restricted Zone and between 7:00 a.m. and 11:00 p.m.; or

      3) In a park or playground Restricted Zone and between 7:00 a.m. and 11:00 p.m.

b. Restricted Zone Restriction Exceptions: A Designated Offender may be physically present on any day or time within a Restricted Zone if all of the following are present:

1) The Designated Offender has official business, which is determined by the reasonable person standard; and

2) The Designated Offender is accompanied by another adult who is not a Designated Offender.

2. Loiter Free Zones: It is unlawful for a Designated Offender to loiter within a Restricted Zone or Loiter Free Zone.

3. Holiday Prohibition: It is unlawful for any Designated Offender to participate in a holiday event involving children under 16 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 non-familial children are present, are exempt from this paragraph.

D. PENALTIES

A person who violates this ordinance shall be punished by a forfeiture not exceeding $2,000.00, together with the actual costs of prosecution, including attorney fees, if necessary.

E. 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 is held invalid, the reminder of the ordinance shall not be affected.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect upon adoption and publication.

Approved and adopted this ____ day of _____, 2007.

_____
Jerry Menne, Village President

DATE OF PUBLICATION:

_____

ATTEST:

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Dawn A. Collins, Village Clerk