

## 6.12 LOITERING AND ACCOUNTABILITY FOR SEX OFFENDERS.

(1) **PURPOSE.** This section is a regulatory measure aimed at protecting the health and safety of children and other individuals in the Village of Hilbert from the risk that convicted sex offenders may re-offend in locations close to their residences. Further, this measure is intended to enhance the community's citizen observation and reporting of individuals who may pose a threat to children or others by "grooming behaviors". The Village finds and declares that in addition to schools and state licensed child day care centers, children congregate or play at public parks, athletic fields, libraries, etc.

(2) **DEFINITIONS.** As used in this section and unless the context otherwise requires:

(a) **Sexually violent offense** shall have the meaning as set forth in § 980.01(6)(a) and (am), Wis. Stats., as amended from time to time.

(b) **Crime against children** shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

§ 940.225(1) First Degree Sexual Assault;

§ 940.225(2) Second Degree Sexual Assault;

§ 940.125(3) Third Degree Sexual Assault;

§ 940.22(2) Sexual Exploitation by Therapist;

§ 940.30 False Imprisonment--Victim was minor and not the offender's child;

§ 940.31 Kidnapping victim was minor and not the offender's child;

§ 944.01 Rape (prior statute);

§ 944.06 Incest;

§ 944.10 Sexual Intercourse with a Child (prior statute);

§ 944.11 Indecent Behavior with a Child (prior statute);

§ 944.12 Enticing Child for Immoral Purposes (prior statute);

§ 948.02(1) First Degree Sexual Assault of a Child;

§ 948.02(2) Second Degree Sexual Assault of a Child;

§ 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child;

§ 948.05 Sexual Exploitation of a Child;

§ 948.055 Causing a Child to View or Listen to Sexual Activity;

§ 948.06 Incest with a Child;

§ 948.07 Child Enticement;

§ 948.075 Use of a Computer to Facilitate a Child Sex Crime;

§ 948.08 Soliciting a Child for Prostitution;

§ 948.095 Sexual Assault of a Student by School Instructional Staff;

§ 948.11(2)(a) or (am) Exposing Child to Harmful Material felony sections;

§ 948.12 Possession of Child Pornography;

§ 948.13 Convicted Child Sex Offender Working with Children;

§ 948.30 Abduction of Another's Child;

§ 971.17 Not Guilty by Reason of Mental Disease of an included offense; and

§ 975.06 Sex Crimes Law Commitment.

(c) **Grooming behavior** means actions deliberately undertaken by an offender with the aim of befriending a child in order to lower the child's sexual inhibitions or establish an intimate friendship in preparation for a sexual act with the child.

(d) **Loiter free zones** means the 500-foot radius surrounding all restricted places.

(e) **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.

(f) **Person** means a person who has been convicted of, or has been found delinquent of, or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children.

(g) **Residence (reside)** means the place where a person sleeps, or which qualifies as a residence under the holdings of the Wisconsin Supreme Court, and which may include more than one location, and may be mobile or transitory.

(3) **RESIDENCY RESTRICTIONS.** A person shall not reside within 500 feet of the real property comprising any of the following:

(a) Any facility for children (which means a public or private school, a group home, as defined in § 48.02(7), Wis. Stats.; a residential care center for children and youth, as defined in § 48.02(15d), Wis. Stats.; a shelter care facility, as defined in § 48.02(17), Wis. Stats.; a foster home, as defined in § 48.02(6), Wis. Stats.; a treatment foster home, as defined in § 48.02(17q), Wis. Stats.; a day care center licensed under § 48.65, Wis. Stats.; a day care program established under § 120.13(14), Wis. Stats.; a day care provider certified under § 48.651, Wis. Stats.; or a youth center, as defined in § 961.01(22), Wis. Stats.); and/or

(b) Any facility used for:

1. A public park, parkway, parkland, park facility;
2. A public swimming pool;
3. A public library;
4. A recreational trail;
5. A public playground;
6. A school for children;
7. Athletic fields used by children;
8. A movie theatre;
9. A state-licensed day care center;
10. Any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
11. A public or private golf course or range; and
12. Aquatic facilities open to the public;

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above-enumerated use(s).

(4) **RESIDENCY RESTRICTION EXCEPTIONS.** A person residing within 500 feet of the real property comprising any of the uses enumerated in subsection (3), does not commit a violation of this section if any of the following apply:

(a) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

(b) The person has established a residence prior to the effective date of this section [October 29, 2009] which is within 500 feet of any of the uses enumerated in subsection (3) above, or such enumerated use is newly established after such effective date and it is located within such 500 feet of a residence of a person which was established prior to the effective date of this section.

(c) The person is a minor or ward under guardianship.

(d) In addition to and notwithstanding the foregoing, no person and no individual who has been convicted of, or adjudicated delinquent for, or been found guilty by reason of mental disease or

defect of a sexually violent offense and/or a crime against children, shall be permitted to reside in the Village of Hilbert, under 500 feet of any enumerated subsection above.

(5) **CHILD SAFETY ZONES.** No person shall enter or be present upon any real property upon which there exists any facility used for or which supports a use of:

- (a) A public park, parkway, parkland, park facility;
- (b) A public swimming pool;
- (c) A public library;
- (d) A recreational trail;
- (e) A public playground;
- (f) A school for children;
- (g) Athletic fields used by children;
- (h) A movie theatre;
- (i) A state-licensed day care center;
- (j) Any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
- (k) A public or private golf course or range;
- (l) Aquatic facilities open to the public; and
- (m) Any facility for children (which means a public or private school, a group home, as defined in § 48.02(7), Wis. Stats.; a residential care center for children and youth, as defined in § 48.02(15d), Wis. Stats.; a shelter care facility, as defined in § 48.02(17), Wis. Stats.; a foster home, as defined in § 48.02(6), Wis. Stats.; a treatment foster home, as defined in § 48.02(17q), Wis. Stats.; a day care center licensed under § 48.65, Wis. Stats.; a day care program established under § 120.13(14), Wis. Stats.; a day care provider certified under § 48.651, Wis. Stats.; or a youth center as defined in § 96.01(22), Wis. Stats.).

(6) **CHILD SAFETY ZONE EXCEPTIONS.** A person does not commit a violation of subsection (5) and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

- (a) The property supporting an enumerated use under subsection (5) also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
  - 1. Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
  - 2. Written advance notice is made from the person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
  - 3. The person shall not participate in any religious education programs which include individuals under the age of 18.
- (b) The property supporting an enumerated use under subsection (5) also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:
  - 1. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
  - 2. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as

designated by the owner of the use upon the property is made in return, of the attendance by the person.

(c) The property supporting an enumerated use under subsection (5) also supports a polling location in a local, state or federal election, subject to the following conditions:

1. The person is eligible to vote;
2. The designated polling place for the person is an enumerated use; and
3. The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property immediately after voting.

(d) The property supporting an enumerated use under subsection (5) also supports an elementary or secondary school lawfully attended by a person as a student under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

**(7) PROHIBITED LOCATION AND/OR ACTS.**

**(a) Restricted Zones .**

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

- a. When children are present or are reasonably presumed or known to be present; or
- b. Monday through Saturday, in a school or day care center restricted zone and between 7:00 a.m. and 11:00 p.m.; or
- c. 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.
- (c) It is unlawful for a Designated Offender to loiter within a restricted zone or loiter free zone.

**(8) 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.

**(9) VIOLATIONS.** If a person violates any provision of this section listed above, without any exception(s) as also set forth above, the Village Attorney, upon referral from the Calumet County Sheriff's Department and the written determination by the Calumet County Sheriff's Department that upon all of the facts and circumstances and the purpose of this section, such residence occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the Village of Hilbert in the Circuit Court for Calumet County to permanently enjoin such residence as a public nuisance. If a person violates any provision of this section, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under Chapter 15 of the Hilbert Code of Ordinances. Each day a violation continues shall constitute a separate offense.

**(10) PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO SEXUAL OFFENDERS.** It is unlawful to let or rent any place, structure or part thereof, manufactured home, 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 the terms of this ordinance, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within 500 feet of any premises where children commonly gather, including but not limited to, a school, day care facility, playground, public or private youth center, public swimming pool, video arcade facility, or children's oriented eating establishment, as those terms are defined in this chapter.

**(11) SEX OFFENDER RESIDENCE APPEAL.** The above 500 foot requirements may be waived upon approval of the Village of Hilbert Board of Trustees through appeal by the affected party as stated in section (4)(d) of this chapter. Such appeal shall be made in writing to the Village Clerk's Office who shall forward the request to the Village of Hilbert Board of Trustees, which shall receive reports from the Calumet County Sheriff's Department on such appeal. The Board of Trustees shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Board shall forward its decision in writing to the Calumet County Sheriff's Department for their information and action. A written copy of the decision shall be provided to the affected party.

**(12) ACCOUNTABILITY PROGRAM.**

(a) The Calumet County Sheriff's Department shall establish and maintain department policy and procedures to verify the registered address of sex offenders and to identify those offenders not in compliance with the Wisconsin Department of Corrections Sex Offender Registry.

(b) A Designated Offender shall provide the Calumet County Sheriff's Department or any official law enforcement officer requesting same, with current photograph and address, employment location, vehicle description(s), and other related information that may be deemed appropriate and lawful.

**PENALTY.**

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any regulation, rule or order made herein, or who shall fail to obtain a license or permit as required by this chapter, shall be subject to a penalty as provided in Chapter 15 of the Code of Ordinances.