

- (c) *Renting Real Property to Sex Offenders Prohibited.* No person shall let or rent any space with the knowledge that it will be used as a permanent residence or temporary residence by a ~~sex~~ Sex ~~offender~~ Offender contrary to the provisions of this section.
- (d) ~~*Number of sex offenders.* No more than 1 person who has been convicted of or been found not guilty by reason of a mental defect or disease of a crime against children may reside in a dwelling unit, except if the persons are married to each other, related by blood or are under an order or supervision of the Department of Corrections.~~

(4) *Other Location Restrictions.*

- (a) No ~~Sex Offender~~ person who has been convicted of or been found not guilty by reason of mental defect or condition of a crime against children shall enter or be present upon any real property upon which there exists any of the following facilities:

- (1) Any facility used for a public park, aquatic facility, library, multi-use recreational trail, playground, or athletic field.
- (2) Any facility for children, including a public, private or specialty school; a group home, as defined in Sec.48.02(7), Stats.; a residential care center for children and youth, as defined in Sec.48.02(1 Sd), Stats.; a shelter care facility, as defined in Sec.48.02(17), Stats.; a foster home, as defined in Sec.48.02(6), Stats.; a treatment foster home, as defined in Sec.48.02(17q), Stats.; a day-care center licensed under Sec.48.65, Stats.; a day-care program established under Sec.120.12(14), Stats.; a day care provider certified under Sec.48.651, Stats.; or a youth center, as defined in Sec.961.01(22), Stats.

(b) *Exceptions.*

- (1) This prohibition does not apply to a ~~person~~ Sex Offender who is a child accompanied by a parent, guardian or adult charged with the child's care.
- (2) The ~~person~~ Sex Offender's child reasonably requires attendance of the person upon the property, as long as the ~~person~~ Sex Offender's presence occurs during hours open to the public for the activity.
- (3) The ~~Sex Offender~~ person is at a polling location, as long as the Sex Offender ~~person~~ is eligible to vote, the location is their designated polling place and the Sex Offender ~~person~~, as reasonably possible as dictated by the conditions at the time, promptly and efficiently exercises their voting privileges and vacates the property upon completion.
- (4) The Sex Offender ~~person~~ lawfully attends a school as required by the State.
- (5) *Map of facilities and required distances.* The Town Clerk's Office shall maintain an official map showing the Child Safety Zones within the Town. The Town Clerk's Office shall update the map at least annually to reflect any changes in the location of Child Safety Zones. The map is to be displayed in the office of the Town Clerk. In the event of a conflict, the terms of this Ordinance shall control. In no event shall a failure to update the map in compliance with this Ordinance preclude the prosecution or conviction of any person under this Ordinance.

(6) Violations. Violations of this ordinance are deemed a public nuisance. Violators of this article shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 for each violation. Each day a violation continues shall constitute a separate offense.

(7) Petition for Exemption.

(a) A Sex Offender may seek an exemption from this ordinance by petitioning to the Sex Offender Residence Board ("Residence Board").

(b) The Residence Board shall consist of three citizens residing in the Town. Members shall be selected by the Town Chair subject to the approval by the Town Board. Members shall serve for a term of five (5) years and shall serve no more than two (2) consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one (1) year, a second member serving three (3) years and the third member serving five (5) years.

(c) The Residence Board shall approve an official petition form. The Sex Offender seeking an exemption must complete the petition and submit it to the Town Clerk who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Town's interest in promoting, protecting and improving the health, safety and welfare of the community. Applicable factors for the Residence Board's consideration shall include, but are not limited to:

- i. Nature of the offense that resulted in sex offender status
- ii. Date of offense
- iii. Age at time of offense
- iv. Recommendation of probation or parole officer
- v. Recommendation of Police Department
- vi. Recommendation of any treating practitioner
- vii. Counseling, treatment and rehabilitation status of sex offender
- viii. Remorse of sex offender
- ix. Duration of time since sex offender's incarceration
- x. Support network of sex offender
- xi. Relationship of sex offender and victim(s)
- xii. Presence or use of force in offense(s)
- xiii. Adherence to terms of probation or parole
- xiv. Proposals for safety assurances of sex offender
- xv. Conditions to be placed on any exception from the requirements of this Ordinance

(d) The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the Sex Offender and the Town of Wayne Police Department.

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

(a) To the extent required by Section 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this Chapter, the Town of Wayne 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 compliances with all court orders issued under Chapter 980 of the Wisconsin Statutes.

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November 21, 2022

Carol Gonwa, Town Clerk
Town of Wayne
6030 Mohawk Rd
Campbellsport, WI 53010

**Re: Sex Offender Residency Ordinance Update
First Draft**

Dear Ms. Gonwa:

I have been directed to review the Town Code regarding the issues arising from the *Koch v. Village of Hartland* decision concerning sex offender residency in the Town and propose any recommended updates to the Code. I have had an opportunity to consider this matter.

Enclosed please find first draft of an ordinance to update these regulations that I have prepared for your consideration. These revisions are recommended due to recent decisions of our federal and state courts. I will be happy to provide a memorandum that outlines the legal reasons for each of these changes in detail, on request, but I hesitate to do so absent such a request for two reasons: (1) It may be more information than you care to know; and (2) such information might be turned against us in the event of a challenge. The goal of this update is to ensure your ordinance is as protective of children against the risk of sex offender recidivism as current law allows. Where the ordinance is made less restrictive, it is with this goal in mind, to ensure your ordinance remains enforceable to the full extent the law allows.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me.

Yours very truly,

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/BTC/em
Enclosure

cc: Carl Klemme, Town Chair – **Personal and Confidential**