

**VILLAGE OF LITTLE CHUTE
ORDINANCE NO. 6, SERIES OF 2013**

AN ORDINANCE AMENDING ORDINANCE CHAPTER 30 SECTION 30-35 (c)(1) AND 30-35 (d)(1) AND (d)(2) ESTABLISHING SEX OFFENDER RESIDENCY RESTRICTION AND THE MAKEUP OF THE SEX OFFENDER RESIDENCY BOARD

BE IT ORDAINED by the Village Board of Trustees, Village of Little Chute, Outagamie County, Wisconsin as follows:

Section1. Chapter 30 Section 30-35 (c)(1) and 30-35 (d)(1) and (d)(2) Establishing Sex Offender Residency Restrictions and the Makeup of the Sex Offender Residency Board of the Village of Little Chute code of ordinances is hereby amended by addition and/or subtraction to the content follows.

Sec. 30-35. - Sexual offender residency restrictions.

(a) *Findings and intent.*

(1) 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 than 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.

(2) It is the intent of this section 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.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Child means a person under the age of 16 years for purposes of this section.

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

Minor means a person under the age of 17 years.

Permanent residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.

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 nonconsecutive days in any month and which is not the person's permanent residence.

(c) *Sexual offender and sexual predator residence, prohibition; penalties; exceptions.*

(1) *Prohibited location of residence.* It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 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.

This limiting designation is not limited to the village. For example, a designated offender is restricted from living in the Village of Little Chute if a park in the City of Kaukauna is within 2,000 feet of the proposed residence.

(2) *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 nonfamilial children are present, are exempt from this subsection. Participation is to be defined as actively taking part in the event.

(3) *Measurement of distance.*

a. 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.

b. The village clerk shall maintain an official map showing prohibited locations as defined by this section. 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.

(4) *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 section constitutes a separate violation. The village may also seek equitable relief.

(5) *Exceptions.* A designated offender residing within a prohibited area as described in subsection (c)(1) of this section does not commit a violation of this section if any of the following apply:

- a. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45 before the effective date of the ordinance from which this section is derived.
- b. The person is a minor and is not required to register under Wis. Stats. §§ 301.45 or 301.46.
- c. 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 person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45.
- d. 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.

(d) *Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.*

(1) 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 section, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in subsection (c)(1) of this section.

(2) A property owner's failure to comply with the provision of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions in subsection (c)(4) of this section.

(e) ~~Sex offender residence board.~~ The requirements of subsection (d) of this section may be waived upon approval of the sex offender residence board through appeal by the affected party. Such appeal shall be made to the village clerk's office, who shall forward the request to the sex offender residence board, which shall receive reports from the police department on such appeal. The board 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 Fox Valley Metropolitan Police Department for their information and action. A written copy of the decision shall be provided to the affected party. The sex offender residence board shall consist of five citizens, three of whom shall constitute a quorum. The village president shall annually, between the last Monday of April and the first Monday of May, appoint, in writing to be filed with the secretary of the board, one member for a term of five years, subject to confirmation by the village board.

- (1) This section establishes a Sex Offender Residence Board which shall consist of five citizens, three of which shall establish a quorum. Members of the Sex Offender Residence Board shall serve five year staggered terms established by appointment at the Village Board's annual organizational meeting in May. At the creation of the Sex Offender Residence Board, the Village President shall appoint one member to a five year term, one member to four year term, one member to a three year term, one member to a two year term, and one member to a one year term. The Sex Offender Residence Board shall convene as requested through appeal of a designated offender and shall consider, but is not limited to consideration of the following: appeal information from the designated offender, nature of the offense, length of time since conviction, input from residents, and recommendation of the Fox Valley Metropolitan Police Department.
- (2) One or more requirements of this section may be waived upon approval of the Sex Offender Residence Board through appeal by the designated offender, if the Board finds that such waiver will not be detrimental to the health, safety, and welfare of persons this chapter is intended to protect, based upon unique circumstances applicable to the designated offender. Such appeal shall be made to the village clerk's office setting forth facts in support of the appeal. The Clerk shall forward the request to the Fox Valley Metropolitan Police Department, which shall generate a recommendation for consideration by the Sex Offender Residence Board.
- (3) The Clerk shall give at least 7 days written notice to the designated offender of the date and time of a hearing before the Sex Offender

Residence Board at which time the designated offender may present evidence supporting the appeal upon which the Sex Offender Residence Board may deliberate for purposes of a final decision. After deliberation, the board shall forward its decision, in writing, to the Fox Valley Metropolitan Police Department for their information and action. A written copy of the decision shall be provided to the designated offender.

Section II: Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provision or application of this Ordinance which can be given effect without the invalid or unconstitutional provisions or its applications.

Section III: Effective Date. This Ordinance shall become effective on the date of passage.

Date Introduced, Approved and Adopted: June 24, 2013

VILLAGE OF LITTLE CHUTE

By:

Michael R. Vanden Berg, Village President

Attest:

Sandy Berkers, Village Deputy Clerk