

Chapter 185

Sexual Offender Residency Restrictions

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[HISTORY: Adopted by the Village Board of the Village of Fall Creek 9-13-2007. Amendments noted where applicable.]

§ 185-1. Title.

This chapter shall be known, cited and referred to as the “Sexual Offender Residency Restrictions Ordinance”.

§ 185-2. 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 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.
- 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 designating locations where children regularly congregate wherein certain sexual offenders and sexual predators are prohibited from entering as well as zones around such locations in which such persons are restricted from establishing temporary or permanent residence.

§ 185-3. 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:

CHILD - a person under the age of 16 for purposes of this ordinance.

DESIGNATED OFFENDER - 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 - a person under the age of 17.

PERMANENT RESIDENCE - a place where the person abides, lodges or resides for 14 or more consecutive days.

TEMPORARY RESIDENCE - 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.

§ 185-4. Sexual offender and sexual predator residence prohibition; penalties; exceptions. [Amended 3-13-2017]

- A. Prohibited Location of Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 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.
- 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 the 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 given offense continues 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 C.(1) does not commit a violation of this section if any of the following apply:

- (1) He or she established the permanent residence or temporary residence and reported and registered the residence pursuant to § 301.45, Wis. Stats., before the effective date of this ordinance.
- (2) He or she is a minor and is not required to register under § 301.45 and § 301.46, Wis. Stats.
- (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 frequent or congregate within 500 feet of the designated offender's permanent residence was opened after he or she established the permanent residence or temporary residence and reported and registered the residence pursuant to § 301.45, Wis. Stats.

Notwithstanding these exceptions, designated offenders shall obey the requirements of § 185-7, below, which prohibit them from loitering in a zone of 66 feet from the exterior boundary of one or more of the identified places where children are known to frequent or congregate.

§ 185-5. 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 § 185-4.A.
- B. A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided in this ordinance.

§ 185-6. Property owners and sales agents prohibited from selling real property to certain sexual offenders and sexual predators; penalties.

- A. It is unlawful for any owner, real estate broker or real estate sales person to participate in the sale of any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a temporary or permanent residence by a person prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, part thereof, trailer or conveyance, is located within a prohibited location zone described in § 185-4.A.
- B. Failure to comply with the provisions of this chapter shall constitute a violation of this section and shall subject the person violating this section to the penalties and other relief as provided in this ordinance.

§ 185-7. Access to community facilities restricted, loitering prohibited.

Designated offenders subject to this ordinance shall be prohibited from having access to all Village parks, trails or pathways, playgrounds, licensed day care centers, athletic fields, schools and school grounds and places of worship in the Village which are recognized as places where children congregate or frequent. This restriction shall apply not only to the properties specified but shall include all sidewalks abutting or adjacent to the same.

No designated offender shall loiter within 66 feet of the boundary of any of the places identified in paragraph above. For purposes of this paragraph, “loiter” shall be identified as meaning to linger in an apparently meaningless manner, idling, walking or moving slowly and indolently with frequent stops or pauses or not moving at all.

§ 185-8. Appeal.

The above requirements may be waived with the approval of the Village Board upon appeal by the affected party. Such appeal shall be made to the Village Clerk, who shall forward the request to the Village Board, which shall receive reports from the Police Department on such appeal. After deliberation, the Village Board shall issue its decision.

§ 185-9. 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 provisions 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.