

**ORDINANCE**

-To Adopt Chapter 7, Title 10  
of the City Code;  
Sexual Predator Residency Limitations-

The Common Council of the City of Stanley does ordain as follows:

Section One: That Ch. 7, Title 10 of the City Code be adopted to read:

**§ 10-7-1      Purpose.**

The City finds and declares that sex offenders are a serious threat to public safety. Given the high rate of recidivism for sex offenders, the City believes that in addition to the protections afforded by state law, in the vicinity of schools, day care centers, and other places children frequent, reducing opportunity and temptation is appropriate to minimizing the risk of re-offense to better protect the children in these public places. This chapter is a regulatory measure aimed at protecting the health and safety of children in the City from the risk that convicted sex offenders may re-offend in locations close to their residences and where children tend to congregate or be regularly present. It is not the intent of this chapter to impose a criminal penalty but rather to serve the City's compelling police power interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating safety zones around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence and wherein access by certain sexual offenders and sexual predators shall be restricted and excluded.

**§ 10-7-2      Authority.**

This ordinance is deemed to be necessary and appropriate by the Common Council in the interests of the citizens of the City of Stanley, acting pursuant to the powers vested in it under §62.11(5), Wis. Stats., to act for the government and good order of the City and for the health, safety, and welfare of the public. In addition, this ordinance is collaterally supported with references to the 8th Circuit Court of Appeals decision of Doe v. Miller, 40 S.F.3d 700 (2009), upholding an Iowa statute regulating residency of sex offenders.

**§ 10-7-3      Findings.**

(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) The City has a compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City 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.

**§ 10-7-4      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:

(a) "Child" or "Children" means a person or persons under the age of 18 as defined in §48.02(2), Wis. Stats., for purposes of this ordinance.

(b) A "Crime Against Children" shall include any of the following offenses set forth within the Wisconsin Statutes, as may be amended and the laws of this or any other state or federal government, having like elements necessary for conviction:

- §940.255(1)      First Degree Sexual Assault
- §940.225(2)      Second Degree Sexual Assault
- §940.225(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
- §940.302(2)      Human Trafficking (if §940.302(2)(a)1.b. Applies)
- §940.31          Kidnapping – Victim was Minor and Not the Offender's Child
- §944.02          Rape (prior statute, see now §940.225)
- §944.06          Incest
- §944.10          Sexual Intercourse with a Child (prior statute, see now §948.02)
- §944.11          Indecent Behavior with a Child (prior statute, see now §948.02)
- §944.12          Enticing Child for Immoral Purposes (prior statute, see now §948.07)
- §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
- §948.051        Trafficking of a Child
- §948.055        Causing a Child to View or Listen to Sexual Activity
- §948.06        Incest with a Child
- §948.07(1)-(4) Child Enticement
- §948.075        Use of a Computer to Facilitate a Child Sex Crime

§948.085	Sexual Assault of a Child Placed in Substitute Care
§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 a 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 a Listed Sex Offense
§975.06	Sex Crimes Law Commitment
§980.01	Sexually Violent Person Commitment

Including court ordered registration for violations of:

§940	Crimes against Life and Bodily Security
§944	Crimes against Sexual Morality
§948	Crimes against Children
§971.17	Not Guilty by Reason of Mental Disease
§943.01-943.15	Certain Crimes against Property
§942.08	Invasion of Privacy (a/k/a Peeping Tom)

(c) “Loiter” or “Loitering” means whether in a crowd, group, or as an individual, to stand idly about, loaf, prowl, congregate, wander, linger aimlessly, proceed slowly or with many stops, to delay or dawdle, for the purpose or in a manner likely to interact or attempting to interact with children (excepting children of the offender), or engaging in activities that would interest children (excepting the children of the offender), or acting in a manner that otherwise has no legitimate purpose.

(d) “Minor” means a person under the age of 18 as defined in §990.01(20), Wis. Stats.

(e) “Permanent Residence” means a residence maintained for more than four (4) days in succession at which place of residence the sex offender intends to continue to make his or her home or place of abode for an indefinite period of time.

(f) “Residence” (“reside”) means a place at which a home or place of abode is maintained for a period of over four (4) days (consecutive or non-consecutive) in any month. Where a voluntary concurrence of a physical presence and an intent to remain in a fixed place of habitation are present, the place will be presumed to be a residence. A residence may be more than one location, and may be mobile or transitory.

(g) “Sex Offender” is a person who has been convicted or, or has been found delinquent of, has been found not guilty by reason of disease or mental defect of a “sexually

violent offense” and/or a “crime against children,” or has been required by any court to register under §301.45, Wis. Stats., for any offense against a child.

(h) “Sexually Violent Offense” shall have the meaning as set forth in §980.01(6), Wis. Stats., as may be amended.

(i) “Temporary Residence” means a residence maintained for more than four (4) consecutive days in any month but, at that, a residence not intended to be maintained on a permanent or impermanent basis.

**§ 10-7-5      Sexual offender and sexual predator residence prohibition; penalties; exceptions.**

(a)      Prohibited Location of Residence. It is unlawful for any designated sexual offender to establish a permanent residence or a 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, 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 City 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)      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 or a ward under guardianship 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 City 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.

(4) The residence is also the primary residence of the designated offender'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.

Notwithstanding these exceptions, designated offenders shall obey the requirements of § 10-7-8, 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.

**§ 10-7-6 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 § 10-7-5.

(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.

**§ 10-7-7 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 § 10-7-5.

(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.

**§ 10-7-8      Access to child safety zones restricted, loitering prohibited.**

Subject to § 10-7-9(c), designated offenders subject to this ordinance shall be prohibited from having access to all City parks, trails or pathways, playgrounds, licensed day care centers, athletic fields, school and school grounds, and places of worship in the City 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 the paragraph above.

**§ 10-7-9      Child Safety Zones.**

(a) No sex offender shall loiter in or within 66 feet of any of the following places:

- (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 of children;
- (7) athletic fields used by children;
- (8) a movie theater;
- (9) a day care center;
- (10) any specialized school of children including, but not limited to, a gymnastics academy, dance academy, or music school;
- (11) a public or private golf course or range;
- (12) aquatic facilities open to the public; and
- (13) 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(m), Wis. Stats., or a youth center as defined in §961.01(22), Wis. Stats.).

(b) The City shall maintain an official map showing Child Safety Zones, updating that list at least annually. The Child Safety Zone maps will be available at the City's offices and on the City's official web site. The map shall be for informational purposes only. The absence of a location on the map shall not be a defense to prosecution where the alleged violator is within 66 feet of a place listed above and circumstances make it clear that the violator had actual notice of that proximity.

(c) A person does not commit a violation of this section and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

(1) The property supporting an enumerated use under (a) also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "place of worship") subject to the following conditions:

a. Entrance and presence is limited to that portion of the premises that is a place of worship and either:

i. occurs only during hours of worship or other religious programs/services; or

ii. The person is present for counseling or worship purposes with the prior or contemporaneous knowledge and consent of an individual in charge of the place of worship or such counseling or worship.

(2) The property supporting an enumerated use under (a) 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:

a. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and

b. 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.

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

- a. The person is eligible to vote;
- b. The designated polling place for the person is an enumerated use; and
- c. 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.

(4) The property supporting an enumerated use under (c) 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.

(5) The property also supports a court, government office, or room for public governmental meetings, subject to all of the following conditions:

- a. The sex offender is on the property only to transact business at the government office or place of business, other than a public library, or attend an official meeting of a governmental body; and
- b. The sex offender leaves the property immediately upon completion of the business or meeting.

**§ 10-7-10 Severability.**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Common Council 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.

§ 10-7-11 Penalties and Remedies.

(a) Forfeitures. Any person found guilty of violating this chapter shall be subject to a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for each violation. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(b) Injunction-Violation of Residency Restrictions. If an offender establishes a permanent or temporary residence in violation of the residency restrictions contained herein, the Chief of Police may refer the matter to the City Attorney. The referral shall include a written determination by the Chief of Police that, upon all of the facts and circumstances and the purpose and intent of this chapter, such violation interferes substantially with the comfortable enjoyment of life, health, safety of another or others. Upon such referral, the City Attorney shall bring an action in the name of the City in Circuit Court to permanently enjoin such residency as a public nuisance.

Section Two: That this ordinance shall take effect upon its adoption and publication as required by law. That this section not be codified.

Dated this 21 day of February, 2011.

**CITY OF STANLEY**

By: David Jankoski  
David Jankoski, Mayor

By: Diane Zais  
Diane Zais, City Clerk

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