

ORDINANCE NO. 2013-05

(5-30-13)

**AN ORDINANCE BY THE ADMINISTRATION, PERSONNEL, POLICY, AND
LEGAL COMMITTEE TO CREATE SECTIONS 10.055 AND 10.056 OF THE
CODE OF ORDINANCES OF THE VILLAGE OF STURTEVANT, RACINE
COUNTY, WISCONSIN, RELATING TO SEX OFFENDER RESIDENCY
REQUIREMENTS AND PROHIBITED CONDUCT OF DESIGNATED SEX
OFFENDER**

1. The Village Board of the Village of Sturtevant, Racine County, Wisconsin, does ordain as follows:

10.055 SEX OFFENDER RESIDENCY RESTRICTIONS

(a) **Findings and Intent.**

- (1) Findings. Repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses; and, most sex offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, clearly exorbitant.
- (2) Intent. It is the intent of this Ordinance not to impose a criminal penalty, but rather to service the Village of Sturtevant'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 sex offenders and sex predators are prohibited from establishing temporary or permanent residency.

(b) **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:

- (1) "Child" or "Children" means person(s) under the age of sixteen (16) years for purposes of this Ordinance.
- (2) "Designated Offender" means any person who is or was required to register under Section 301.45, Wisconsin Statutes, for any sexual offense against a child, or any person who is or was required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.
- (3) "Minor" means a person under the age of seventeen (17) years.
- (4) "Permanent Residence" means a place where the Designated Offender lodges or resides for fourteen (14) or more consecutive days.
- (5) "Temporary Residence" means either: (a) a place where the person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address; or, (b) a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's Permanent Residence.

- (6) "Prohibited Location" means any school property (public or private), licensed daycare center, park, trail, playground, athletic fields used by children, place of worship, or any other place designated by the Village as a place where children are known to congregate

(c) **Sex Offender and Sex Predator Residence; Prohibitions and Exceptions**

(1) Prohibited Location of Residence.

- a. It is unlawful for any Designated Offender not placed pursuant to Department of Corrections (DOC) guidelines (whereby Designated Offenders are returned to their home community) to establish a Permanent Residence or Temporary Residence within two thousand five hundred (2,500') feet of a Prohibited Location.
- b. It is unlawful for any Designated Offender placed in compliance with Department of Corrections (DOC) guidelines (whereby Designated Offenders are returned to their home community) to establish a Permanent Residence or Temporary Residence within one thousand (1,000') feet of a Prohibited Location.
- c. No Designated Offender may establish a Permanent Residence or Temporary Residence within a six (6) block radius of an existing Permanent Residence or Temporary Residence of another Designated Offender.

- (2) Determination of Minimum Distance Separation. 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 of a Designated Offender to the nearest outer property line of a Prohibited Location.

- (3) Maps. A map depicting the above enumerated uses and the resulting residency restriction distances shall be adopted by Resolution of the Village Board, and which map may be amended from time-to-time, is on file in the Office of the Village Clerk for public inspection.

- (4) Original Domicile Restriction. In addition to and notwithstanding the foregoing prohibitions, but subject to section 10.055(c)(6) below, no person and no individual who has been convicted of a sexually violent offense and/or a crime against children as a sex offense as that term is defined under Sec. 301.45(1d)(b), Wis. Stats., shall be permitted to reside in the Village of Sturtevant, unless such person was legally domiciled in the Village of Sturtevant at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.

- (5) Notification. A Designated Offender must notify the Police Department a minimum of three (3) days prior to establishing either a Permanent Residence or Temporary Residence within the Village of Sturtevant.

- (6) Exceptions. A Designated Offender residing within a Prohibited Location as defined in Section 10.055(b)(6) shall not be in violation of this Ordinance if any of the following apply:

- a. The Designated Offender established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Section 301.45, Wisconsin Statutes, before the effective date of this Ordinance.
- b. The Designated Offender is a Minor and is not required to register under Sections 301.45 and 301.46, Wisconsin Statutes.

- c. The Prohibited Location situated within two thousand five hundred/one thousand (2,500/1,000') feet of the person's Permanent Residence was opened or established after the Designated Offender established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Section 301.45, Wisconsin Statutes.
 - d. 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 (2) 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.** It shall be unlawful for any property owner to lease or rent any place, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Permanent Residence or Temporary Residence by any person prohibited from establishing a Permanent Residence or Temporary Residence therein pursuant to this Ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a Prohibited Location zone as defined in Section 10.055(b)(6). Notwithstanding the exception set forth in Section 10.055(c)(6)(a), it shall be unlawful for a property owner to renew a leasehold interest established prior to the effective date of this Ordinance, whether the leasehold interest is on a month-to-month basis or for a definite term, for a period beyond six (6) months from the effective date of this Ordinance.
- (e) **Public Nuisance.** Any violation of this Chapter shall be deemed a public nuisance affecting peace and safety and the Village may proceed under Section 10.10 of the Code of Ordinances and/or Chapter 823 of the Wisconsin Statutes to abate the nuisance.
- (f) **Injunction for Violation of Residency Restrictions.** If an offender establishes a permanent or temporary residence in violation of subsection (c) above, the Chief of Police may refer the matter to the Village 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 Ordinance, such violation interferes substantially with the comfortable enjoyment of life, health, and safety of another or others. Upon such referral, the Village Attorney shall bring an action in the name of the Village in Circuit Court to permanently enjoin such residency as a public nuisance.
- (g) **Severability.** Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.
- (h) **Penalties.** Any Person who violates any provision of this Section shall, upon conviction, thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense. Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this Chapter.

10.056 PROHIBITED CONDUCT OF DESIGNATED SEX OFFENDER

(a) **Findings and Intent**

- (1) Findings. Repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses; and, most sex offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, clearly exorbitant.
- (2) Intent. It is the intent of this Ordinance not to impose a criminal penalty, but rather to service the Village of Sturtevant'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 sex offenders and sex predators are prohibited from establishing temporary or permanent residency.

(b) **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:

- (1) "Designated Offender" shall have the same meaning as specified in Sec. 10.055(b)(2) of this Code of Ordinances.

(c) **Prohibited Activity.** It is unlawful for any Designated Offender to participate in a holiday event involving children under eighteen (18) years of age. 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 Section. Participation is defined as actively taking part in the event and shall include, but is not limited to, 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.

(d) **Severability.** Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.

(e) **Penalties.** Any person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense.

2. This ordinance shall take effect upon adoption and publication as provided by law.

Adopted by the Village Board of the Village of Sturtevant, Racine County, Wisconsin, this 18th day of June, 2013.

VILLAGE OF STURTEVANT

By: _____
Steven Jansen, President

Attest: _____
Mary Cole, Clerk

