

Licensed premises means the area within a building or structure which is licensed pursuant to chapter 6, but not including parking lots, sidewalks, roadways or land which is adjacent to the building or structure and within the property boundary lines.

Public parking lot means any area held out to the public for the parking of motor vehicles, whether such area is publicly or privately owned unless such area is specifically identified as part of the licensed premises.

Public property means any property, including buildings or structures thereon, which is owned, leased or operated by the town or the school district; public sidewalks; roadways and streets; playgrounds; and parks.

Sec. 10-16. Prohibited conduct.

No person shall consume any fermented malt beverage or intoxicating liquor in or upon any public property or public parking lot.

Sec. 10-17. Prohibited conduct outside licensed premises.

No person who has purchased fermented malt beverages or intoxicating liquor from any licensed premises shall consume such beverages or liquor outside of, but within the property boundary lines of, such premises.

Sec. 10-18. Exceptions to article provisions.

(a) The prohibitions in sections 10-16 and 10-17 shall not apply to those events or activities which are otherwise permitted or licensed pursuant to chapter 6.

(b) The prohibitions in sections 10-16 and 10-17 shall not apply to those persons who transport unopened fermented malt beverages or intoxicating liquor from a point of purchase to their destination unless it is in violation of Wis. Stats. § 346.93.

ARTICLE V. SEXUAL OFFENDER RESIDENCY RESTRICTIONS

Sec. 10-19. Recitals, findings and Intent.

(1) *Recitals.*

(a) Whereas, after reviewing and discussing examples of sex offender residency restriction ordinances from other municipalities, the locations of places where children are known to congregate in the Town, after public meetings, the Town Board adopted the first version of this ordinance on September 10, 2008.

- (b) Whereas the United States District Court for the Eastern District of Wisconsin issued an Order on April 17, 2017, in the case titled *Hoffman v. Town of Pleasant Prairie*, which contained holdings that directly impact the terms of the Town's Municipal Code Article V of Chapter 10 and make it necessary to amend the terms of this ordinance to comply with the District Court's holdings.
 - (c) Whereas, on, April 24, 2018, the Town Board held a public meeting on proposed revisions to the Town' sex offender ordinance. At this meeting, the Board reviewed and discussed the existing ordinance, proposed revisions to the existing ordinance and discussed the following written materials:
 - 1. "Recidivism of Adult Sexual Offenders." U.S. Department of Justice, July 2015, SOMAPI (Sex Offender Management Assessment and Planning Initiative); and
 - 2. "An Overview of Sex Offender Management." July 2002, U.S. Department of Justice, CSOM (Center for Sex Offender Management); and
 - 3. "There goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws." May 2006, National Bureau of Economic Research; and
 - 4. Order of the Honorable J.P. Stadtmueller of the United States District Court, Eastern District of Wisconsin, *Hoffman et al. v. Town of Pleasant Prairie*, Case No. 16-CF-697-JPS.
 - (d) Whereas, the Town Board held a public meeting on June 26, 2018 on this ordinance and reviewed the list of protected locations as set forth under the ordinance.
- (2) *Findings.* This ordinance is a regulatory measure aimed at protecting the health and safety of children in the Town from the risk that convicted sex offenders may reoffend in locations close to their residences. The Town Board finds and declares that repeat sexual offenders who use physical violence and sexual offenders who prey on children, are sexual offenders who present an extreme threat to the public safety and the health of children. 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 and the community where they reside, while incalculable, clearly exorbitant. It is further believed that such persons present an alarmingly high risk of re-offending once released and as such it is better for sex offenders to reside in their home community where their support systems exist rather than in a community where the sex offender may not have a support network. The Town Board finds the risk of recidivism increases if the sex offender recently offended and if the sex offender does not have a strong social network, including community and familial ties. The Town

Board is aware of many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions. The Town Board acknowledges that literature on the subject includes some studies that support the practice of sex offender residency restrictions and others that are critical of the practice. As such, the Town hereby establishes regulations which restrict certain offenders from residing or congregating in areas that are at or near where there is a high concentration of children in order to provide better protection for children in the Town by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism.

- (3) *Intent.* It is expressly not the intent of this Ordinance to impose additional punishment on sex offenders, but rather to serve the Town of Paris compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from establishing residency. The Town establishes these regulations in order to provide protection to children in the Town by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism. Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of reoffense, there is a compelling need to protect children where they congregate or play in public places.

Sec. 10-20 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" means a person under the age of sixteen (16) years for purposes of this ordinance.
- (2) "Designated Offender" means any person who is required to register under Section 301.45 and 301.46, Wisconsin Statutes, for any sexual misconduct or violation as a result of being a repeat sexual offender, sexual offender who has used physical violence in committing an offense or who has preyed upon children.
- (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) *Protected Location* means any School Property, Day Care Center, Library, Park, Recreational Trail, Playground, Athletic Fields used by children, Place of Worship, Swimming Pool, any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school; any other place designated in the Map adopted by the Town under Sec. 10-21 (5) as a place where children are known to congregate. The defined terms included in the definition of Protected Location are:
- (a) *School Property* means any public school as defined by Wis. Stat. § 115.01(1); a private school as defined by Wis. Stat. § 115.001(3); a charter school as defined by Wis. Stat. § 115.001(1); a specialty school, including, but not limited to, a Montessori school, a gymnastics academy, dance academy, or music school.
 - (b) *Day Care Center* means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before-and after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).
 - (c) *Facility For Children* means a public or private school, a *group home*, as defined in Wis. Stats. §48.02(7), a *residential care center for children and youth*, as defined in Wis. Stats. §48.02(15d), a *shelter care facility* as defined in Wis. Stats. §48.02(17), a *foster home*, as defined in Wis. Stats. §48.02(6), a *treatment foster home*, as defined in Wis. Stats. §48.02(17q), a *daycare center licensed under Wis. Stats. §48.65*, a *daycare program established under Wis. Stats. §120.13(14)*, a *daycare provider certified under Wis. Stats. §48.651*, or a *youth center*, as defined in Wis. Stats. §961.01(22).
 - (d) *Library* means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.
 - (e) *Park* means any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach. "Park" shall also mean any privately owned neighborhood parks and open spaces where children congregate such as those that host equestrian camps and other programming for children and those owned by a homeowners association of a subdivision.
 - (f) *Playground* means any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, sandboxes, seesaws.
 - (g) *Place of Worship* means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.
 - (h) *Recreational Trail* means a trail where children walk, ride bicycles, or ride horses, whether publicly or privately owned.

Sec. 10-21 Sexual Offender and Sexual Predator Residence; Prohibitions and Exceptions.

- (1) Prohibited Location of Residence; Child Safety Zones.
 - (a) It shall be unlawful for any Designated Offender to establish a Permanent or Temporary Residence within six thousand five hundred (6,500) feet of a Protected Location.
- (2) Notification. A Designated Offender must notify the Town Clerk/Treasurer in writing a minimum of three (3) days prior to establishing either a Permanent Residence or Temporary Residence within the Town of Paris on a form provided by the Town.
- (3) 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.
- (4) 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 Protected Location.
- (5) *Maps.* A map depicting the above Protected Locations and the resulting residency restriction distances shall be adopted by Resolution of the Town Board, and which map may be amended from time-to-time, is on file in the Office of the Town Clerk for public inspection. This Map is a tool that the Town chooses to utilize to provide notice to the public of the requirements of the Ordinance. In the event of a conflict between the Map and this Ordinance where a Protected Location is inadvertently omitted from the Map, the written provisions of this Ordinance shall control.
- (6) Exceptions. A Designated Offender residing within a Protected Location as described in Section 10-20 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 Protected Location situated within six thousand five hundred (6,500') feet of the person's Permanent or Temporary 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 Offenders 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.

Sec. 10-22 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, room, 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 Protected Location zone as defined in Section 10-20.

Sec. 10-23 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.

Sec. 10-24 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 day such violation continues shall be considered a separate offense.

Sec. 10-25 Appeal for An Exemption.

- (1) A Designated Offender may seek an exemption from the requirements and prohibitions under Article V of Chapter 10 by appealing to the sex offender residency board (the "Appeals Board").
- (2) The Appeals Board shall consist of the three Town Board Supervisors until such a time that the Town Board appoints three citizens and one alternate, who are residents of the Town, who shall serve without

compensation. At such a time when citizen members are initially appointed to the Appeals Board, the Town Board shall appoint three members to staggered terms of one, two or three years, and one alternate for a term of three years. After the initial appointment of members to a term of one, two and three years respectively, the Town Board shall annually appoint one member for a term of three years and one alternate for a term of three years every third year, commencing on May 1st. At the first meeting held of the Appeals Board after the first Monday of May of each year, the members of the Appeals Board shall vote by majority vote to select a chair for its meetings and appeals that come before it.

- (3) Appeal form, filing fee, bond, pre-hearing conference and notice.
- a. Application Form. The Town Clerk, in consultation with the Appeals Board, shall prepare an official appeal form, a hearing schedule and deadlines for filing an appeal. An offender shall complete this official form and submit it to the Town Clerk, who shall forward it to the Appeals Board.
 - b. Filing Fee. The filing fee, if any, for the appeal shall be set by resolution of the Town Board from time-to-time.
 - c. Hearing Bond. To incentivize attendance at scheduled hearings, the Designated Offender shall pay a \$250 Hearing Bond made payable to the Town of Paris upon the filing of an application under this section. The Town Clerk shall hold the Hearing Bond until the conclusion of the Designated Offender's scheduled hearing. The Hearing Bond shall be returned to the Designated Offender upon the conclusion of Designated Offender's hearing regardless of the hearing's result. The Hearing Bond shall be returned if a timely withdraw is submitted at least one week prior to the scheduled hearing. The Town shall retain the Hearing Bond if the Designated Offender fails to appear at a pre-hearing conference that is not rescheduled or a hearing.
 - d. Undue Hardship. The Appeals Board may waive the Filing Fee or Hearing Bond if the Designated Offender illustrates that payment of the Filing Fee or Hearing Bond creates an undue hardship on the applicant due to income, employment status, or other relevant factors.
 - e. Pre-hearing conference. Prior to the Appeals Board hearing, the Designated Offender shall attend in person a pre-hearing conference with the Town Clerk and the Town Attorney. The purpose of the pre-hearing conference is to explain the hearing process, complete the application, and review potential witnesses for the hearing. If the Designated Offender fails to appear at the pre-hearing conference, the Designated Offender's application shall be deemed incomplete and shall not be scheduled for a hearing. The Town Clerk shall send a notice to the Designated Offender indicating that the application is incomplete, and the application will not be scheduled for a hearing until the Designated Offender reschedules and attends the pre-hearing conference. The application shall be deemed withdrawn if the Designated Offender does not reschedule the pre-

hearing conference within thirty (30) days of the failure to appear at the pre- hearing conference.

- f. Notice and Agenda. Notice in the form of an agenda shall be posted and/or published as required by law and provided to the Appeals Board, the property owner if not the applicant, and published on the Town's website at least seven days prior to the hearing date.

(4) The Town elects not to be bound by Wis. Stat. Ch. 68 with respect to administrative procedure in the appeals process. The Appeals Board shall hold a hearing on each appeal to conduct an individual risk assessment in each case, during which the Appeals Board may review any pertinent information and may accept oral and written statements from any person. The Designated Offender that filed the appeal shall appear at any hearing held, unless otherwise approved by the Appeals Board. The Appeals Board shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The Appeals Board shall also consider any oral, emailed, and written statements from any person at the hearing or received in advance of the hearing. The Appeals Board shall consider the specific facts and circumstances of each applicant and determine whether the applicant presents a threat to public safety if he or she resides at that proposed location. The Appeals Board shall consider factors which may include, but are not limited to, the following:

- a. Circumstances surrounding the offense.
- b. Relationship of offender and victim.
- c. Presence or use of force.
- d. Presence of enticement.
- e. Need to protect victim or similarly situated individuals.
- f. Current dangerousness of the offender.
- g. Proximity in time from original offense.
- h. Any criminal offenses, ordinance or rule violations committed since original offense including failures to register or comply with restrictions set by bond, parole or probation.
- i. Time out of incarceration.
- j. Current supervision status by the Department of Corrections.
- k. Counseling and treatment history.
- l. Credibility of offender.
- m. Remorse.
- n. Proximity of proposed residence to a child safety zone.
- o. Support network of offender near proposed residence
- p. Alternative options for housing.

- (5) The Appeals Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or be conditional to a certain address or period of time. In the case of an approval or denial, the Appeals Board shall provide a written copy of the decision containing the reasons therein for its decision to the Town Clerk, any Code enforcement officer and to the applicant. The decision of the Appeals Board may be appealed to the Kenosha County Circuit Court by any aggrieved party within 30 days of filing of the final decision in the Town Clerk's office, a copy of which shall be mailed to the Designated Offender who appealed. The review shall be a review by certiorari and the Circuit Court may affirm or reverse the final decision, or remand to the decision maker for further proceedings consistent with the Court's decision.
- (6) Failure to Appear at Hearing.
- a. If a Designated Offender applies for an exemption under Sec. 10-25 and fails to appear at the Appeals Board hearing, the application shall be denied unless the Appeals Board finds the failure was the result of excusable neglect. A Designated Offender shall not apply for another appeal application within one (1) year from the date of such denial. In the event that a Designated Offender fails to appear at a hearing and the Appeals Board finds the Designated Offender's non-appearance is due to excusable neglect, the Appeals Board shall reset the application for a hearing.
 - b. Any application may be withdrawn by the Designated Offender at any time up to a week prior to the hearing scheduled by the Town Clerk. However, no application to reside at the same address may be filed within six (6) months of the withdrawal date. All such withdrawal requests shall be in writing by the Designated Offender.
 - c. No filing fees in the case of withdrawal shall be refunded.