

**ORDINANCE # 22.08**  
**AN ORDINANCE TO CREATE CHAPTER 18 OF THE TOWN OF BRIDGE CREEK,  
EAU CLAIRE COUNTY, WISCONSIN'S ORDINANCES**

**The Town Board of the Town of Bridge Creek do ordain as follows:**

**SECTION I – AUTHORITY**

The Town Board of the Town of Bridge Creek, Eau Claire County, Wisconsin, has authority to enact this ordinance pursuant to its authority to exercise Village Powers and Wis. Stat. § 61.34 to act to promote the good order of the Town, and to promote the health, safety, and welfare of the public.

**SECTION II – CREATION OF CHAPTER 18**

**Sex Offender Residency Restrictions**

- 18.01 Declaration of Purpose and Findings
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**18.01 DECLARATION OF PURPOSE, INTENT, AND FINDINGS**

This chapter is a regulatory measure aimed at protecting the health and safety of children in the Town of Bridge Creek from the risk that convicted sex offenders may reoffend in locations close to their residences and close to where children congregate. Further, this measure is intended to enhance the community's citizen observation and reporting of individuals who may pose a threat to children by “grooming behaviors.” The Town of Bridge Creek finds and declares that in addition to schools and state-licensed child day-care centers, children and other vulnerable individuals congregate or play in a number of public places, including public parks, athletic fields, libraries, and other places such as group homes.

It is the intent of this ordinance not to impose a criminal penalty or punishment but rather to serve the Town’s compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Town 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 residences.

According to a 1997 report prepared by the US Department of Justice titled “Sex Offenses and Offenders,” nearly two-thirds of victims of convicted rape and sexual assault offenders serving time in state prison were under the age of eighteen (18); the median age of victims of imprisoned sexual assault offenders was less than thirteen (13) years; the median age for rape victims was about twenty-two (22) years; an estimated twenty-four percent (24%) of those serving time for rape and nineteen percent (19%) of those serving time for sexual assault had been on probation or parole at the time of the offense.

Based upon a 2003 study by the U.S. Department of Justice, Bureau of Justice Statistics, titled *Recidivism of Sex Offenders Released from Prison in 1994*, sex offenders released from prison were four times more likely to be rearrested for a sex crime as compared to non-sex offenders released from prison. Of those individuals included in the study, forty (40) percent of new sex crimes committed by those sex offenders released from prison had occurred within the first twelve (12) months of release. Further, child molesters who were released from prison were at least six times more likely to be rearrested for another sex crime against a child as compared to a non-sex offender released from prison.

According to the “Sex Offender Management Assessment and Planning Initiative Research Brief,” (“SOMAPI Research Brief”) issued by the U.S. Department of Justice in July 2015 regarding the recidivism rates for child molesters, in one study “researchers reported that 5.1 percent of the child molesters in the study were rearrested for a new sex crime within 3 years of their release, 14.1 percent were rearrested for a violent crime, and 39.4 percent were rearrested for a crime of any kind.” Further, “Similar to the pattern for rapists, child molesters with more than one prior arrest had an overall recidivism rate nearly double (44.3 percent compared to 23.3 percent) that of child molesters with only one prior arrest. As might be expected, child molesters were more likely than any other type of offender—sexual or nonsexual—to be arrested for a sex a crime against a child following release from prison.” In another study cited by the SOMAPI Research Brief, based on a 25-year follow up period, the researchers found a sexual recidivism rate of 52 percent (defined as those charged with a subsequent sexual offense) using a sample of 115 child molesters who were discharged from civil commitment in Massachusetts between 1960 and 1984.”

The United States Supreme Court has recognized that the risk of recidivism posed by sexual offenders is “frightening and high” and “when convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault”, *Smith v. Doe*, 538 U.S. 84, 183 S.Ct. 1140, 155 L.Ed. 2d 164 (2003) and *McKune v. Lile*, 536 U.S. 24, 34, 182 S.Ct. 2017, 153 L.Ed. 2d 47 (2002) citing U.S. Department of Justice, Bureau of Justice Statistics, *Sex Offenses and Offenders*, 27 (1997); U.S. Department of Justice, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1983*, page 6 (1997).

The Common Council has reviewed the decision of the United States Court of Appeals for the 8th Circuit in *Doe v. Miller*, 405 F.3d 700, 716 (8th Circuit 2005), providing in part: “the record does not support a conclusion that the Iowa General Assembly and the Governor acted based merely on negative attitudes toward, fear of, or a bare desire to harm a politically unpopular group. [Citation omitted] Sex offenders have a high rate of recidivism, and the parties presented

expert testimony that reducing opportunity and temptation is important to minimizing the risk of reoffense. Even experts in the field could not predict with confidence whether a particular sex offender will reoffend, whether an offender convicted of an offense against a teenager will be among those who ‘cross over’ to offend against a younger child, or the degree to which regular proximity to a place where children are located enhances the risk of reoffense against children. One expert in the district court opined that it is just ‘common sense’ that limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense. [Citation omitted] The policymakers of Iowa are entitled to employ such ‘common sense,’ and we are not persuaded that the means selected to pursue the State’s legitimate interest are without rational basis.”

Certain areas of the Town of Bridge Creek have poor cellular phone service, and depending on the type of monitoring used, the Town believes there may be a time lapse between an alert notification and agency response to a violation of GPS monitoring. “In some areas, particularly if the cellular coverage is poor, the tracking may be limited. This in effect means that there may be gaps in time or periods throughout any given day where no tracking information is available.” “The Challenges of GPS and Sex Offender Management,” Lisa Bishop, *Federal Probation*, Volume 74, Number 2.

Electronic monitoring is not foolproof and subject to critical errors. “In 2011, California officials conducted tests on the monitoring devices worn by 4,000 high-risk sex offenders and gang members, and according to the LA Times, found that ‘batteries died early, cases, cracked, tampering alerts failed, and reported locations were off by as much as three miles.’ (“Decades later, electronic monitoring of offenders is still prone to failure,” Jack Karsten and Darrell M. West, The Brookings Institute, (Sept. 21, 2017)). “An audit in Tennessee found that 80 percent of alerts from offender monitoring devices were not checked by officers. Similar issues came to light in Colorado and New York when officers missed or ignored repeated alerts of device failure and then several parolees committed violent crimes. Officers in Florida were so overwhelmed with alerts that they stopped all real-time notifications, save those relating to device removal, and as a result, did not notice when one parolee broke his curfew 53 times in one month before killing three people.” *Id.*

Due to the Town’s distance from the County seat, the City of Eau Claire, which houses the Eau Claire County Sheriff’s Department, the Town finds it has an interest in protecting the public’s health, safety, and welfare by ensuring that any placement of a person under ch. 980, Wis. Stats., includes mandatory consultation with the Town’s Local Law Enforcement. The Town’s Local Law Enforcement will have more localized knowledge of safety issues with placements and be in closer proximity to respond to issues related to the placement of that person in the Town. The Town finds that requiring consultation with the Town’s Local Law Enforcement is consistent with the limits enacted in Wis. Stat. § 980.135.

After consideration of the foregoing recitals and related reports and proceedings pertaining to this subject matter; and upon the prior experience of the Town of Bridge Creek in protecting the members of the community from sexually violent persons, the Town Board of the Town of Bridge Creek finds the proposed ordinance creating residency and loitering restrictions for sex offenders will serve to protect the health, safety, and welfare of the community.

## 18.02 DEFINITIONS

The following words, terms, and phrases, when used in this chapter, shall be defined as follows, except when the context clearly indicates a different meaning:

- (a) CHILD or CHILDREN — A person under the age of 18.
- (b) DESIGNATED OFFENDER — Includes any or all of the following persons: (1) A person required to register as a sex offender under Wis. Stat. § 301.45 or prior iterations of State Statutes related to sex offender registration, if the sex offense which required registration involved a child; (2) a person subject to the sex crimes commitment provisions of Wis. Stat. § 975.06; (3) a serious child sex offender as defined in Wis. Stat. § 980.01(4m); (4) a sexually violent person as defined in Wis. Stat. § 980.01(7); or (5) any person who has been convicted of a crime under Wis. Stat. §§ 948.05, 948.055, 948.075, 948.08, 948.095, 940.10, 948.11, 948.18, or 948.13 or prior iterations of such State Statutes, if the sex offense which required registration involved a child.
- (c) GROOMING BEHAVIOR — Actions deliberately undertaken by an offender with the aim of befriending a child in order to lower the child's sexual inhibitions or establish an intimate friendship in preparation for a sexual act with the child.
- (d) LOITER-FREE ZONE — The three-hundred (300) foot radius surrounding each restricted zone.
- (e) LOITER or LOITERING — Whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.
- (f) RESIDENCE or RESIDE — Any place where a designated offender, either temporarily or permanently, sleeps, lodges, or abides.
- (g) RESTRICTED ZONE — The building, facilities and improvements, and the legal parcel of real property on which they are situated, to the extent the property is within the Town of Bridge Creek, that are used for, or which support a use set forth as follows:
  - (1) A public park, wildlife area, parkway, parkland, or park facility;
  - (2) A public swimming area;
  - (3) A public library;
  - (4) A recreational trail;
  - (5) A public playground;
  - (6) A school for children;
  - (7) Athletic fields used by children;
  - (8) A state-licensed commercial day-care center;
  - (9) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, music school or charter school;

- (10) Aquatic facilities open to the public;
  - (11) Any facility for children [which means a public or private school, a group home as defined in Wis. Stat. § 48.02(7), a residential care center for children and youth as defined in Wis. Stat. § 48.02(15d), a shelter care facility as defined in Wis. Stat. § 48.02(17), a foster home as defined in Wis. Stat. § 48.02(6), a day-care center licensed under Wis. Stat. § 48.65, a day-care program established under Wis. Stat. § 180.13(14), a day-care provider certified under Wis. Stat. § 48.651, or a youth center as defined in Wis. Stat. § 961.01(22).];
  - (12) Churches, synagogues, mosques, temples, other houses of religious worship or other buildings primarily used for religious purposes or religious instruction, and at which regular educational programs for children are provided, e.g., Sunday School (collectively “church”).
  - (13) Designated ATV routes on County highways and ATV trails not on Town roads.
- (h) WISCONSIN STATUTES and WIS. STAT. — The Wisconsin Statutes in effect when this chapter is adopted and shall include any amendment to or renumbering of the statutes after the adoption of this chapter.

**18.03 PROHIBITED ACTS IN RESTRICTED ZONES**

- (a) Within a restricted zone(s) no designated offender shall:
  - (1) Enter or be present in any restricted zone that is a public playground, school for children, or facility for children.
  - (2) Enter or be present in any other restricted zone between the hours of 6:00 a.m. and 11:30 p.m. or at any time when a child is present.
  - (3) Loiter within a loiter-free zone.
- (b) A designated offender does not violate this chapter if any of the following apply:
  - (1) If the designated offender has official business in the restricted zone, which is determined by the reasonable person standard and such official business is not otherwise prohibited by law, regulation, or other order.
  - (2) If the designated offender enters or is present in a restricted zone that includes a church, but only if the following conditions are all satisfied:
    - a. The entrance and presence upon the property occurs only during hours of worship or other religious program or service as posted to the public;
    - b. The designated offender shall not participate in any religious education programs which include children; and
    - c. Such entrance or presence is not otherwise prohibited by law, regulation, or other order.
  - (3) If the designated offender enters or is present in a restricted zone to attend an event involving the designated offender’s natural or adopted children, or stepchildren,

- but only if the following conditions are all satisfied:
- a. Entrance and presence in the restricted zone occurs only during hours of activity related to the event as posted to the public;
  - b. Notice, orally or in writing, is given to a person in charge of the event of the designated offender's attendance prior to the event; and
  - c. Such entrance or presence is not otherwise prohibited by law, regulation, or other order.
- (4) If the designated offender enters or is present at a polling location in a restricted zone for the purpose of voting in any local, state or federal election, but only if the following conditions are all satisfied:
- a. The person is eligible to vote;
  - b. The polling location is the designated polling place for the designated offender; 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.
- (5) If the designated offender enters or is present in a restricted zone that supports an elementary or secondary school that the designated offender currently attends, but only if the designated offender's presence is required for educational purposes and such entrance or presence is not otherwise prohibited by law, regulation, or other order.
- (6) If the designated offender is using a public highway to actively travel and not loiter on the highway or its right-of-way.

#### **18.04 RESIDENCY RESTRICTIONS**

- (a) A designated offender shall not reside within 500 feet of a school for children, facility for children, public park, church, or within 500 feet of any other restricted zone. The distance shall be measured by following a straight line from the closest boundary line of the real property supporting the residence of a designated offender to the closest real property boundary line of the restricted zone.
- (b) Exceptions. A designated offender residing within 500 feet of the real property consisting of a school for children, a facility for children, public park, church, or within 500 feet of the real property comprising any other restricted zone, does not violate section 18.04(a) if any of the following apply:
- (1) The person has established a residence prior to the effective date of this chapter, and has continuously maintained said residence since that effective date, which is within 500 feet of a school for children, a facility for children, public park, church, or within 500 feet of any other restricted zone.
  - (2) The designated offender has established a residence within 500 feet of a school for

children, a facility for children, public park, church, or within 500 feet of any other restricted zone prior to that restricted zone existing, and has continuously maintained said residence prior to that restricted zone existing.

- (3) The designated offender is a minor or ward under guardianship.
- (4) The designated offender is living in an assisted facility or nursing home.

#### **18.05 PREPARATION OF MAP**

The Town Clerk shall maintain an official map showing the areas in which designated offenders are prohibited from residing. The Town Clerk shall update the map at least annually to reflect any changes. The map is to be displayed or available in the office of the Town Clerk.

#### **18.06 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 Clause costume, or wearing an Easter Bunny costume. Holiday or costumed events in which the designated offender is the parent or guardian of the children involved and no non-familial children are present, are exempt from this section.

#### **18.07 PROHIBITION OF SALE OR RENTAL OF PROPERTY TO DESIGNATED OFFENDERS**

- (a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance (“Structure”), with the knowledge that a designated offender will reside in that Structure, if the designated offender is prohibited from residing in the Structure under this chapter.
- (b) 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, (“Structure”), with the knowledge that a designated offender will reside in that Structure, if the designated offender is prohibited from residing in the Structure under this chapter.

#### **18.08 CONSULTATION DURING PLACEMENT**

Pursuant to the mandatory consultation process under Wis. Stat. § 980.08(4)(dm)2., Eau Claire County, applicable Eau Claire County department, and the temporary committee created under Wis. Stat. § 980.08(4)(dm) shall consult with the Town’s Local Law Enforcement and shall allow the Town’s Local Law Enforcement to submit a written report that provides information relating to the residential option of the person who may be subject to supervised release under Wis. Stat. § 980.08. If a report is submitted under this section and Wis. Stat. § 980.08(4)(dm)2., Eau Claire County, the applicable Eau Claire County department, or temporary committee, shall include the report when the County report is submitted to the Wisconsin Department of Health Services. For the purpose of this section, “Town’s Local Law Enforcement” is defined to mean either the Town’s contracted law enforcement agency or law enforcement agency created by the Town, and excludes the Eau Claire County Sheriff’s Department.

**18.09 ACCOUNTABILITY PROGRAM**

- (a) The Town’s contracted local law enforcement (“Department”) may establish and maintain Department policy and procedures to verify the registered address of designated offenders and to identify those designated offenders not in compliance with the Wisconsin Department of Corrections Sex Offender Registry.
- (b) Designated offenders shall provide the Department or any official law enforcement officer requesting the same with current photograph and address, employment location, vehicle description(s), and other related information that may be deemed appropriate and lawful.

**18.10 SEVERABILITY**

The provisions of this chapter shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this chapter irrespective of whether or not one or more provisions may be declared invalid. If any provision of this chapter or the application to any person or circumstance is held invalid, the remainder of this chapter or the application of such other provisions to other persons or circumstances shall not be affected.

**(11) ENFORCEMENT; VIOLATIONS AND PENALTIES.**

- (a) It shall be unlawful for any person to willfully obstruct, hinder, or delay the enforcement of any order, rule, regulation, or plan issued pursuant to this chapter or to do any act forbidden by any order, rule, regulation, or plan issued pursuant to the authority contained in this chapter.
- (b) Any person violating a provision of this chapter shall, upon conviction thereof, be subject to forfeiture of not less than \$500.00 and no more than \$1,000.00 for each violation. Each day a violation continues shall constitute a separate offense.
- (c) The Town may seek injunctive relief and neither the issuance of a citation nor the imposition of a forfeiture hereunder shall preclude the Town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this chapter. Additionally, the Town attorney may bring an action in the name of the Town in the Circuit Court for Eau Claire County to permanently enjoin such residency as a public nuisance.





**SECTION III - PUBLICATION AND EFFECTIVE DATE**

Following passage by the Town Board, this ordinance shall take effect upon the date of publication as provided in Section 60.80, Wisconsin Statutes.

Adopted this 15<sup>th</sup> day of September, 2022.

**TOWN OF BRIDGE CREEK**

  
\_\_\_\_\_  
Ricky Strauch, Town Chairman

Attest:   
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Kathy Olson, Town Clerk