

CITY OF STURGEON BAY
COMMUNITY PROTECTION & SERVICES COMMITTEE
Thursday, February 18, 2015
4:30 p.m.
Council Chambers, City Hall – 421 Michigan Street

1. Roll call.
2. Adoption of agenda.
3. Consideration of: Sex Offender Residency Restrictions
4. Adjourn

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR

Notice is hereby given that a majority of the Common Council may be present at this meeting to gather information about a subject over which they have decision-making responsibility. If a quorum of the Common Council does attend, this may constitute a meeting of the Common Council and is noticed as such, although the Common Council will not take any formal action at this meeting.

Posted:
Date: 2/17/16
Time: 10:00 am
By: SSO

Community Protection & Service Committee Members:
Richard Wiesner, Chr.
Ed Ireland, Vice Chr.
Will Gregory

EXECUTIVE SUMMARY

TITLE: Create Municipal Ordinance 10.34 – Sex Offender Residency Restrictions

BACKGROUND: The Wisconsin Statutes provide for the punishment, treatment and supervision of person convicted or otherwise responsible for sex crimes against children, including their release into the community.

Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender due to their likelihood to reoffend, and specifically, in Wis. Stat. § 980.08, provides for the supervised release of such persons into the community.

The City of Sturgeon Bay places a high priority on maintaining public safety through highly skilled and trained law enforcement and laws that deter and punish criminal behavior.

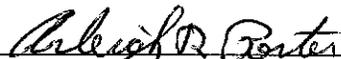
The City finds that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and as reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and daycare centers. The City finds that, in addition to schools and daycare centers, children congregate or play in a number of public places, including public parks and houses of worship.

Further, 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 reoffend following placement in the community. It is the purpose of this chapter not to impose a criminal penalty but rather to serve the City's compelling interest in promoting, protect and improving the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from loitering or prowling.

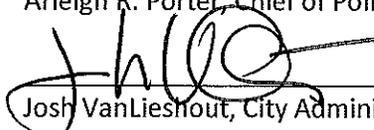
FISCAL IMPACT: None

RECOMMENDATION: To create Municipal Ordinance 10.34. Please see attached.

PREPARED BY:


Arleigh R. Porter, Chief of Police

APPROVED BY:


Josh VanLieshout, City Administrator

DATE: February 18, 2016

ORDINANCE NO. _____
Sexual Offender Residency Restrictions

THE COMMON COUNCIL OF THE CITY OF STURGEON BAY, WISCONSIN DO ORDAIN
AS FOLLOWS:

SECTION 1: Section 10.34 of the Municipal Code of the City of Sturgeon Bay, Wisconsin
is hereby created to read as follows:

10.34. Sexual Offender Residency Restrictions.

- (1) Findings and Purpose. The Wisconsin Statutes provide for the punishment, treatment and supervision of person convicted or otherwise responsible for sex crimes against children, including their release into the community.

Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender due to their likelihood to reoffend, and specifically, in Wis. Stat. § 980.08, provides for the supervised release of such persons into the community.

The City of Sturgeon Bay places a high priority on maintaining public safety through highly skilled and trained law enforcement and laws that deter and punish criminal behavior.

The City finds that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and as reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and daycare centers. The City finds that, in addition to schools and daycare centers, children congregate or play in a number of public places, including public parks and houses of worship.

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certain sexual offenders and sexual predators are prohibited from loitering or prowling.

(2) Definitions. As used in this chapter, and unless the context requires otherwise:

- (a) A “sexually violent offense” shall have the meaning as set forth in Wis. Stat. §980.06(6), as amended from time to time.
- (b) A “crime against children” shall mean any of the following offenses set forth within the Wisconsin statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, where the victim is under the age of 18, respectively:

Wisconsin Statute Sections	
940.225(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
940.31	Kidnapping-victim was minor and not the offender's child
944.01	Rape (prior statute)
944.06	Incest
944.10	Sexual Intercourse with a Child (prior statute)
944.11	Indecent Behavior with a Child (prior statute)
944.12	Enticing Child for Immoral Purposes (prior statute)
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
948.055	Causing a Child to View or Listen to Sexual Activity
948.06	Incest with a Child
948.07	Child Enticement
948.075	Use of Computer to Facilitate a Child Sex Crime

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 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 an included offense
975.06	Sex Crimes Law Commitment

- (c) "Facility for children" means a public or private or secondary school; a church, synagogue, or house of worship as zoned by the City; a group home, as defined in Wis. Stat. §48.02(7); a residential care center for children or youth, as defined in Wis. Stat. §48.02(15d); a shelter care facility, as defined in Wis. Stat. §48.02(17); a daycare center licensed under Wis. Stat. §48.65; a daycare program established under Wis. Stat. §120.13(14); or a daycare provider certified under Wis. Stat. §48.651.
- (d) "Offender" means a person who has been convicted of or who has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children who was tried as an adult.
- (e) "Permanent residence" means the place where a person sleeps, abides, lodges, or resides for 14 or more consecutive days or which qualifies as a residence under the laws of the State of Wisconsin.
- (f) "Sexually violent offense" shall have the meaning as set forth in Wis. Stat. §948.06(6).
- (g) "Temporary residence" means residence or premises meeting any of the provisions of (e) hereof for a period of less than 14 consecutive days.
- (3) Original Domicile Restriction.
- (a) Residency Prohibited. No offender who has ever been ruled a sexual violent offender by a petition filed under Wis. Stat. Ch. 980 or any offender who has been convicted of a crime against children as defined in subsection (2)(b) shall be permitted to

reside in the City, and no supervised release of such offender shall be established in the City, unless the offender committed the offense in the City.

- (b) Exemptions. An offender does not commit a violation of this chapter if any of the following apply:
1. The offender is required to serve a sentence or is otherwise involuntary required to reside in a jail located in the City of Sturgeon Bay.
 2. The offender has established a residence in the City of Sturgeon Bay prior to the effective date of this ordinance.
 3. The offender is a minor or ward under guardianship.
- (4) Loitering. It is unlawful for an offender, as defined by Section 10.34 (2), to loiter or prowl, as said words are used in Section 10.34 (4), within 500 feet of real property that supports upon which there exists a facility for children, a public park, a public swimming pool, a public library, or a public recreational trail.
- (5) Appeal. The residency restrictions of this chapter may be waived upon approval of the City Council through an appeal by the affected offender. Such appeal shall be made in writing to the City Clerk, who shall forward the request to the City Administrator and the Chief of Police. The Chief of Police shall forward a report on the appeal request to the City Council. The City Council will convene within 30 days of the appeal being filed with the Clerk to hear from the Chief of Police and the affected offender or their counsel. After deliberation, the City Council shall act on the recommendation. A written copy of the decision shall be provided to the affected offender by the City Clerk. The City Council may reject a waiver request when the request is filed with the City Clerk within 90 days of denial by the committee of a prior identical waiver request of the requester, absent a change in circumstances.
- (6) Penalties. Any person found guilty of violating this ordinance shall be penalized by forfeiture not less than \$100 and not to exceed \$1,000. Each day an offender maintains a residence in violation of this article constitutes a separate violation. The City may also seek equitable relief.
- (7) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 2. This Ordinance shall take effect on the day after its publication.

Approved:

Date of 1st Reading: _____

Thad Birmingham, Mayor

Date of 2nd Reading: _____

Attest:

Adoption: _____

Stephanie L. Reinhardt, City Clerk

Publication: _____

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Revised 02/17/16