

Chapter 178

PEACE AND GOOD ORDER

[HISTORY: Adopted by the Town Board of the Town of Scott as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 9.

Intoxicating liquor and fermented malt beverages — See Ch. 94.

ARTICLE I

Sex Offenders

[Adopted 2-13-2017 by Ord. No. 1-2017]

§ 178-1. Findings and purpose.

The Town finds and declares that certain sex offenders are a serious threat to public safety. This article is a regulatory measure aimed at protecting the health and safety of children in the Town of Scott from the risk that certain convicted sex offenders may reoffend in locations close to their residences.

- A. 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.
- B. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, 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 day-care centers. The Town finds and declares that, in addition to schools and day-care centers, children congregate or play at public parks, swimming pools, libraries, recreational trails, athletic fields, and playgrounds.
- C. It is the intent of this article not to impose a criminal penalty 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 creating safety zones around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders are prohibited from establishing temporary or permanent residence and wherein access by certain sexual offenders shall be restricted.

§ 178-2. Definitions.

As used in this article and unless the context otherwise requires, the following terms shall have the meanings indicated:

CHILD SAFETY ZONE — Includes any real property upon which there exists any facility used for or which supports a use of:

- A. A public park, parkway, parkland, or park facility;

- B. A public swimming pool;
- C. A public library;
- D. A recreational trail;
- E. A public playground;
- F. A school for children;
- G. Athletic fields used by children;
- H. A day-care center;
- I. Any specialized school for children, including but not limited to a gymnastics academy, dance academy or music school;
- J. Aquatic facilities open to the public;
- K. 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 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, Wis. Stats., or a youth center, as defined in § 961.01(22), Wis. Stats.]; and
- L. A facility used for providing activities and services for children on a regular or seasonal basis.

CRIME AGAINST CHILDREN — 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 and involving a person under the age of 18 years, respectively:

- § 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 a computer to facilitate a child sex crime
- § 948.08 Soliciting a child for prostitution
- § 948.085 Sexual assault of a child placed in substitute care
- § 948.09 Sexual intercourse with a child age 16 or older
- § 948.095 Sexual assault of a child by a school staff person or a person who works or volunteers with children
- § 948.10 Exposing genitals or pubic area to a child
- § 948.11 Exposing a child to harmful material or harmful descriptions or narrations
- § 948.12 Possession of child pornography
- § 948.13 Convicted child sex offender working with children
- § 948.14 Registered sex offender and photographing minors
- § 948.30 Abduction of another's child
- § 971.17 Commitment of persons found not guilty by reason of mental disease or mental defect - of an included offense
- § 975.06 Sex crimes law commitment

OFFENDER — A person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a crime against children.

ORIGINAL DOMICILE — The offender's true, fixed and permanent home, to which the offender intends to return and remain even though currently residing elsewhere.

PERMANENT RESIDENCE — The place where an offender abides, lodges, or resides for 14 or more consecutive days.

TEMPORARY RESIDENCE

- A. The place where the person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence; or
- B. The place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

§ 178-3. Residency restrictions.

- A. An offender shall not establish a permanent residence or temporary residence in any location on a parcel of land which, in whole or in part, is within 2,500 feet of the real property comprising any of the following:
- (1) 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 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, Wis. Stats., or a youth center, as defined in § 961.01(22), Wis. Stats.]; and/or
 - (2) Any facility used for:
 - (a) A public park, parkway, parkland, or park facility.
 - (b) A public swimming pool.
 - (c) A public library.
 - (d) A recreational trail.
 - (e) A public playground.
 - (f) A school for children.
 - (g) Athletic fields used by children.
 - (h) A day-care center.
 - (i) Any specialized school for children, including but not limited to a gymnastics academy, dance academy or music school.
 - (j) Aquatic facilities open to the public.
 - (k) A facility used for providing activities and services for children on a regular or seasonal basis.
- B. The distance shall be measured using a straight line from the closest boundary line of the real property supporting the residence of an offender to the closest real property boundary line of the applicable above-enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the office of the Town Clerk for public inspection.

§ 178-4. Exceptions to residency restrictions.

An offender does not commit a violation of this article if any of the following apply:

- A. The person established the permanent residence prior to the date of the violation that resulted in a conviction as an offender.
- B. The person established the permanent residence or temporary residence and reported and

registered the residence pursuant to § 301.45, Wis. Stats., before the effective date of the relevant requirement of this article.

- C. The person is a minor and is not required to register under § 301.45 or 301.46, Wis. Stats.
- D. The facility described in § 178-3 above was opened after the person established the permanent residence or temporary residence and the person reported and registered the residence pursuant to § 301.45, Wis. Stats.
- E. The residence is also the primary residence of the person's parents, grandparents, siblings, or spouse, or the person's child or children, provided that such parent, grandparent, sibling, spouse or child established the residence at least three years before the offender established the residence at the location. For purposes of this subsection, the person's "child" and/or "children" refers to the biological or adopted relationship with the person without regard to the age of the child or children, provided that such relationship existed prior to the date of the violation which resulted in a conviction as an offender.

§ 178-5. Original domicile restriction.

In addition to and notwithstanding the foregoing, subject to § 178-4 above, no offender shall be permitted to establish a residence in the Town of Scott unless such person was domiciled in the Town of Scott at the time of the offense resulting in the person's most recent conviction for committing the crime against children.

§ 178-6. Prohibited acts in or near child safety zones.

It shall be unlawful for any offender as defined in § 178-2 to enter into, congregate, loiter, wander, stroll, stand, or play in or near a child safety zone under circumstances that warrant alarm for the safety of persons in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a law enforcement or peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances make it impracticable, a law enforcement or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the law enforcement or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the law enforcement or peace officer at the time, would have dispelled the alarm.

§ 178-7. Participation in holiday events.

It is unlawful for any offender to participate in a holiday event in the Town of Scott involving one or more children by means of: distributing candy or other items to such child or children in relation to Halloween; wearing a Santa Claus costume in relation to Christmas; wearing an Easter bunny costume in relation to Easter; or by engaging in other similar type(s) of activity that may, under the circumstances then present, tend to entice a child to have contact with an offender. Holiday events in which the offender is the parent or legal guardian of the child or children involved, and no other children are present, are exempt from this section.

§ 178-8. Sale or rental of real property to offender.

- A. No person shall knowingly sell or rent a residential property to an offender if the property is located in such a manner that the offender, by residing at the property, will be in violation of § 178-3 above.
- B. A property owner's failure to comply with the provisions of this section shall constitute a violation of this article and shall subject the property owner to the penalties provided in § 178-9 below.

§ 178-9. Violations and penalties.

- A. Forfeitures. Each violation of any provision of this article shall be subject to a forfeiture not less than \$150 and not more than \$250. Each violation and each day a violation continues or occurs shall constitute a separate offense.¹
- B. Injunction; violation of residency restrictions. If an offender establishes a permanent or temporary residence in violation of the residency restrictions contained herein, the Town Board may refer the matter to the Town Attorney. The referral shall include a written determination by the Town Board that, upon all of the facts and circumstances and the purpose and intent of this article, such violation interfered substantially with the comfortable enjoyment of life, health, or safety of another or others. Upon such referral, the Town Attorney shall bring an action in the name of the Town in Circuit Court to permanently enjoin such residency as a public nuisance.

¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).