

**CITY OF PORT WASHINGTON, WISCONSIN
ORDINANCE NO. 2015-7**

Prohibiting the Presence of or Loitering by Sex Offenders in Certain Locations

WHEREAS, the Common Council of the City of Port Washington has determined that adoption of an ordinance restricting the presence of or loitering by sex offenders in certain locations within the City will promote the public health, safety and welfare, including but not limited to child safety,

NOW, THEREFORE, the Common Council of the City of Port Washington, Wisconsin do ordain as follows:

Section 1. § 11.08.010 of the Municipal Code of the City of Port Washington is created to read as follows:

11.08.010 SEX OFFENDER RESTRICTIONS.

A. Findings and Intent.

1. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the City from the risk that sex offenders convicted of offenses against children may re-offend in locations near to where children congregate. Given the high rate of recidivism for sex offenders, and that restricting opportunity is important to reducing the risk of re-offense, there is a need to protect children where they congregate or play in public places. Therefore, the City finds and declares that sex offenders are a serious threat to the safety of children if regulatory measures are not in place that prohibit the presence of or loitering by sex offenders in specified areas designated as places children commonly congregate. The City further finds that in addition to schools and child care facilities, children congregate or play at child-oriented facilities, such as parks, playgrounds and recreational areas.
2. It is not the intent of this ordinance to impose a criminal penalty, but rather to serve the City's compelling interest in promoting, protecting, and improving the health, safety, and welfare of children of the City by prohibiting sex offenders from being present or loitering in specified areas near locations where children regularly congregate or play. It is the further intent of this ordinance to recognize that convicted sex offenders must reenter the community, and the City hereby accepts that it has a responsibility to convicted sex offenders and surrounding area municipalities to ensure that, in addition to promoting regulatory measures aimed at protecting children, its regulatory measures are not aimed at prohibiting convicted sex offenders from being part of society.

B. Definitions. As used in this section, the following words, terms and phrases shall have the meanings indicated, except when the context clearly indicates a different meaning:

1. Child - means a person under 16 years of age for the purposes of this section.
2. Child care facility - means a child care facility that is operated by a person licensed under §48.65, Stats. or certified under §48.651, Stats. or contracted for under §120.13(14), Stats.,
3. Designated Offender - means a person who is required to register under §301.45, Stats., or who is listed on the state Sex Offender Registry, or who is subject to state Sex Offender Registry guidelines, for any sexual offense against a child, unless the person was under age 18 at the time of the offense and the offender was not convicted of the offense as an adult.
4. Loitering - means, whether in a group or individually, to stand idly about, loaf, prowl, congregate, wander, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

5. Minor - means a person under 17 years of age.
6. School premises - means any public, parochial, private or tribal school building, grounds, recreation area, athletic field or any other property owned, used or operated for school administration.
7. Zones -
 - (a) Restricted Zones - means those certain areas designated by the City as places in which children congregate or play, including but not limited to school premises, child care facilities, parks, playgrounds, recreational areas or other locations designated by the City. Restricted Zones generally do not include areas beyond the real estate parcel(s) upon which the building, structure, facility or park is located that caused the City's designation of such Restricted Zone, but may include adjoining or adjacent parcels if such parcels are used for ancillary purposes, such as an athletic field located adjacent to a school.
 - (b) Loiter Free Zones - means those areas lying within a 200 foot radius of a Restricted Zone. The distance shall be measured outward from each boundary line of the real estate parcel(s) that support or upon which there exists any of the uses which cause the property to be designated as a Restricted Zone.
 - (c) Restricted Zone Maps - means an official map maintained by the City showing Restricted Zones designated in green and Loiter Free Zones designated in yellow (the "Restricted Zone Map"). The City shall update the Restricted Zone Map at least annually to reflect any changes in the location of Restricted Zones and Loiter Free Zones. Restricted Zone Maps will be made available at the City Clerk's office and on the City's official website.

C. Prohibited Locations and/or Acts; Exceptions.

1. Restricted Zones.
 - (a) Restricted Zone Restrictions. It is unlawful for any Designated Offender to be physically present within a Restricted Zone under any of the following circumstances:
 - (1) When children are present or are known or reasonably presumed to be present; or
 - (2) Between 7:00 a.m. and 11:00 p.m., Monday through Friday, in a school or child care facility Restricted Zone; or
 - (3) Between 7:00 a.m. and 11:00 p.m. in a park, playground or recreational area Restricted Zone.
 - (b) Exceptions to Restricted Zone Restrictions. A Designated Offender may be physically present on any day or time within a Restricted Zone if all of the following are present:
 - (1) The Designated Offender has legitimate or official business, which shall be determined by the reasonable person standard; and
 - (2) The Designated Offender is accompanied by or is in the presence of another adult who is not a Designated Offender.

- (3) The Restricted Zone Restrictions are not intended to impede normal community activities such, but not limited to, the following:
 - a. Attendance at church or religious services or functions.
 - b. Normal use of public facilities such as adult library, adult recreation and adult education areas, but excluding facilities primarily used or frequented by children.
 - c. Commercial and business establishments used or frequented by the general public, but excluding establishments primarily used or frequented by children unaccompanied by adults.
- (4) The Restricted Zone Restrictions and Loiter Free Zone Restrictions do not apply to a person who is confined in a jail, an adult correctional facility, a juvenile detention facility as defined in §938.02(10r), Stats., or a secured residential care center for children and youth as defined in §938.02(15g), Stats., or pursuant to ch. 980, Stats.

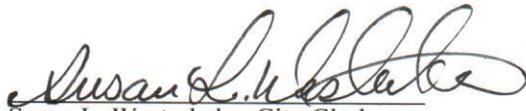
2. Loiter Free Zones. Except as provided in subsection C.1.(b)(4) hereof, it is unlawful for a Designated Offender to loiter within a Restricted Zone or within a Loiter Free Zone.

D. Penalties. Whoever violates this section shall, upon conviction, be punished by a forfeiture of not less than \$500 or more than \$1,000, together with the costs of prosecution for each such offense, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days. Each violation that occurs, and each day a violation continues, shall constitute a separate offense.

E. Severability. The provisions of this section are deemed severable and it is expressly declared that the City would have enacted the other provisions of this section irrespective of whether one or more provisions hereof may be declared invalid. If any provision of this section is held invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.

Section 2. This ordinance shall become effective upon passage and publication as required by law.

Passed and approved this 18th day of August, 2015.


Susan L. Westerbeke, City Clerk


Thomas Mlada, Mayor