

TOWN OF LAC DU FLAMBEAU

ORDINANCE NUMBER 07-01

ORDINANCE TO PROVIDE REGULATIONS RELATING TO RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

SECTION 1

Statutory Authority: This Ordinance is adopted as authorized under 61.34, Wisconsin Statutes

Purpose: The purpose of this Ordinance is to ensure the health, safety and welfare of the community by regulating the residency of sex offenders

Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

Interpretation: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes

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.

Applicability: The provisions of this Ordinance shall apply to all persons and property deemed to fall under the authority of the regulations promulgated by the Town of Lac du Flambeau

SECTION 2

Definitions:

A. A “sexually violent offense” shall have the meaning as set forth in Wis. Stat. 980.01(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, including, but not limited to:

940.225(1), 940.225(2), 940.225(3), 940.22(2), 940.30, 940.31, 944.01, 944.06, 944.10, 944.12, 948.02(1), 948.02(2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11(2)(a) or (am), 948.12, 948.13, 948.30, 971.17, and 975.06

C. “Person” means 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 sexually violent offense and/or a crime against children.

D. “Residence” (“reside”) means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

SECTION 3

Residency Restrictions:

3.1 A person shall not reside within three thousand (3,000) feet of the real property comprising any of the following:

A. Any facility for children (which means a public or private school, a group home, as defined in 48.02(7), Wis Stat., a residential care center for children and youth, as defined in 48.02(15d) Wis. Stat., a shelter care facility, as defined in 48.02(17) Wis Stat., a foster home, as defined in 48.02(6) Wis. Stat., a treatment foster home, as defined in 48.02(17q) Wis. Stat., a day care program established under 120.13 (14) Wis. Stat., a day care provider certified under 48.651 Wis. Stat., or a youth center, as defined in 961.01(22) Wis. Stat., and/or

B. Any facility used for:

- a public park, parkway, parkland, park facility
- a public swimming pool
- a public library
- a recreational trail
- a public playground
- a school for children
- athletic fields used by children
- a movie theatre
- a daycare center
- any specialized school for children
- a public or private golf course or range
- aquatic facilities open to the public

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above listed use(s).

Residency Restriction Exceptions:

3.2 A person residing within three thousand feet of the real property comprising any of the uses listed above does not commit a violation of this Ordinance if any of the following apply:

A. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

B. The person has established a residence prior to the effective date of this Ordinance on _____, which is within three thousand feet of any of the uses listed above, or such use is newly established after such effective date and is located within such three thousand feet of a residence of a person which was established prior to the effective date of this Ordinance.

C. The person is a minor or ward under guardianship

Original Domicile Restriction:

- 3.3 In addition to and notwithstanding the foregoing, but subject to exceptions listed immediately above, no person and no individual who has been convicted of a sexually violent offense and/or a crime against children, shall be permitted to reside in the Town of Lac du Flambeau, unless such person was domiciled in the Town of Lac du Flambeau at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.

Child Safety Zones:

- 3.4 No person shall enter or be present upon any real property upon which there exists any facility used for or which supports a use of all uses enumerated in 3.1 A and B above.

3.5 **Child Safety Zones exceptions:**

A person does not commit a violation of Section 3.4 above and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

A. The property supporting a use listed in Sections 3.1A and 3.1B above also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:

1. Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
2. Written advance notice is made from the person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
3. The person shall not participate in any religious education programs which include individuals under the age of 18.

B. The property supporting a use listed in Sections 3.1A and 3.1B above also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably required the attendance of the person as the child's parent upon the property, subject to the following conditions:

1. Entrance and presence upon the property occurs only during hours of activity related to the use posted to the public; and
2. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.

C. The property supporting a use listed in 3.1A and 3.1B above also supports a polling location in a local, state or federal election, subject to the following conditions:

1. The person is eligible to vote
2. The designated polling place for the person is a use listed in 3.1A and/or 3.1B above; and
3. 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.

D. The property supporting a use listed in 3.1A and 3.1B above also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

SECTION 4

Violations:

If a person violates this Ordinance by establishing a residence or occupying residential premises within three thousand feet of those premises as described herein, without any exception(s) as also set forth herein, the Town Attorney, upon referral from the Town Chairman and the written determination by the Town Chairman that upon all of the facts and circumstances and the Purpose of this Ordinance, such residence occupancy presents an activity or use of the property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the Town in the Circuit Court for Vilas County to permanently enjoin such residency as a public nuisance. If a person violates Section 3.4 of this Ordinance, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under Ordinance 95-02C of the Municipal Code. Each day a violation continues shall constitute a separate offense. In addition, the Town may undertake all other legal and equitable remedies to prevent or remove a violation of this Ordinance.

SECTION 5:

Effective Date:

This Ordinance shall take effect and be in force upon its passage and publication of the notice of adoption as provided by law.

Adopted this __ 10th __ day of ___ October ___, 2007

_____/s/_____
Francis Chartier, Chairman

_____/s/_____
Mike Christensen, Supervisor

_____/s/_____
Matthew E. Gaulke, Supervisor