

**CITY OF JEFFERSON
PROPOSED ORDINANCE #16-12**

**AN ORDINANCE TO RESTRICT CONVICTED SEX OFFENDERS FROM
RESIDING WHERE CHILDREN CONGREGATE**

Section 1. **WHEREAS**, Wis. Stat. § 62.11(5) authorizes the Common Council to enact ordinances for the health, safety, and welfare of the public.

Section 2. **WHEREAS**, the City of Jefferson cannot prohibit convicted sex offenders completely within its community, but can restrict where convicted sex offenders reside.

Section 3. **THEREFORE**, the City of Jefferson, in an effort to minimize the risk of re-offense and to protect the safety and welfare of the public, hereby enacts Ordinance No. 208-27; an ordinance to restrict convicted sex offenders from residing where children congregate.

**THE COMMON COUNCIL OF THE CITY OF JEFFERSON, WISCONSIN DO
ORDAIN AS FOLLOWS:**

Section 4. **§ 208-27(1) Purpose and Intent.**

This chapter is a regulatory measure aimed at protecting the health and safety of children in the City of Jefferson from the risk that convicted sex offenders may reoffend in locations close to their residences. The City finds and declares 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 sexual assault. Given the high rate of recidivism for sex offenders and that 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, day-care centers and other places children frequent.

It is not the intent of the City to punish sex offenders, but rather to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City of Jefferson by creating areas around certain locations where children regularly congregate in concentrated numbers, wherein, certain sexual offenders are prohibited from establishing temporary or permanent residence.

Section 5. **§ 208-27(2) Definitions.**

For the purposes of this section:

(a) "Child" means a person under the age of eighteen (18) years

(b) "Offender" shall mean:

1. Any person who is required to register under Sec. 301.45 Wis. Stats. for any offense against a child or any person who is required to register under 301.45 Wis. Stats. and who is subject to the Special Bulletin Notification process set forth in Sec. 301.46(2) and (2m) Wis. Stats.,
 2. Any person subject to the sex crimes commitment provisions of Sec. 975.06 Wis. Stats.,
 3. Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under Sec. 971.17(1j) Wis. Stats.
- (c) “Permanent residence” shall mean a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (d) “Temporary residence” shall mean a place where a person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person’s permanent address or place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or non-consecutive days in any month and is not the person’s permanent address.
- (e) “Original domicile” means the offender’s true, fixed and permanent home, to which the offender intends to return and remain even though currently residing elsewhere.

Section 6. § 208-27(3) Residency Restriction.

- (a) Restriction. In the absence of a circuit court order specifically exempting an offender from the residency restriction in this subsection, an offender shall not establish a permanent or temporary residence within 1,500 feet of any of the following:
1. Private or public school
 2. Public park, parkway, or parkland
 3. Recreational trail
 4. Public playground
 5. Public library
 6. Athletic field used by children
 7. Licensed daycare center, as defined in § 48.65, Wis. Stats.,
 8. Specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school
 9. Group home for children, as defined in § 48.02(7), Wis. Stats.
 10. Residential care center for children, as defined in § 48.02(15d)
 11. Foster home, as defined in § 48.02(6), Wis. Stats., or treatment foster home, as defined in § 48.02(17q), Wis. Stats.
- (b) Measuring Distance and Map of Restricted Locations. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to nearest

outer property line of the establishments listed above in § 208-27(3)(a). The City Clerk shall maintain an official map showing prohibited locations as defined by this section. The City Clerk shall update the map at least annually to reflect any changes in the prohibited areas.

- (c) Exceptions. A offender residing within a prohibited area as described in § 208-27(3)(a) does not commit a violation of this section if any of the following apply:
1. The offender is required to serve a confined sentence at a jail or other correctional institution or facility located within a prohibited area.
 2. The offender established a permanent or temporary residence and reported and registered the residence pursuant to § 301.45 Wis. Stats., before the effective date of this section. Once said offender no longer resides in the restricted area, another convicted sex offender may not establish residency in said residence in the restricted area.
 3. The school, park, recreational trail, playground, library, athletic field, daycare, specialized school, group home, residential care center, or foster home, where children regularly gather within 1,500 feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and reported and registered the residence pursuant to § 301.41 Wis. Stats.
 4. The offender is a minor or ward under guardianship.
- (d) Original Domicile Restriction. In addition to the residency restrictions set forth herein and subject to 208-27(3)(c) above, no offender shall be permitted to establish a residence in the City of Jefferson unless such person was domiciled in the *City of Jefferson* at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a sex offender as set forth in § 208-27(2)(b) above.
- (e) Property owners prohibited from renting real property to certain offenders.
1. It is unlawful to let or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent or temporary residence by any offender prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, is located within a prohibited area and not subject to an exception set forth in § 208-27(3)(c) above.
 2. A property owner's failure to comply with this section shall constitute a violation of this section, and shall subject the property owner to the penalty provisions in § 208-27(5) below.

Section 7. § 208-27(4) Child Safety Zones.

- (a) Definition. “Child Safety Zones” shall include any real property upon which there exists any route, path, area, or facility used for or which supports a use of:
1. A public or private school
 2. A public park, parkway, or parkland
 3. A public library
 4. A recreational trail
 5. A public playground
 6. Athletic fields used by children
 7. Licensed daycare center, as defined in § 48.65, Wis. Stats.
 8. Specialized school for children, including, but not limited to a gymnastics academy, dance academy, or music school
 9. Group home for children, as defined in § 48.02(7), Wis. Stats.
 10. Residential care center for children, as defined in § 48.02(15d)
 11. Foster home, as defined in § 48.02(6), Wis. Stats., or treatment foster home, as defined in § 48.02(17q), Wis. Stats.
- (b) Restriction. It shall be unlawful for any offender to enter or be present upon any child safety zones.
- (c) Map of Restricted Locations. The City Clerk will maintain an official map depicting the child safety zones as defined by this section. The City Clerk shall update the map at least annually to reflect any changes in the restricted locations.
- (d) Exceptions. An offender does not commit a violation of § 208-22(4) and offender may enter or be present upon a child safety zone if any of the following apply:
1. The child safety zone also serves as a church, synagogue, mosque, temple or other house of religious worship (collectively “church”), subject to the following conditions:
 - i. Entrance and presence upon the property only occurs during hours of worship or other religious program/service as posted to the public; and
 - ii. Written advance notice is made from the offender 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 offender; and
 - iii. The offender shall not participate in any religious education programs which include individuals under the age of 18.
 2. The child safety zone also serves a use lawfully attended by an offender's natural or adopted child(ren) *or natural or adopted grandchild(ren)*, which child's use reasonably requires the attendance of the offender as the child's parent or grandparent upon the property, subject to the following conditions:
 - i. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and

- ii. Written advance notice is made from the offender 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 offender.
3. The child safety zone also serves as a polling location in a local, state or federal election, subject to the following conditions:
 - i. The offender is eligible to vote;
 - ii. The designated polling place for the offender is an enumerated use; and
 - iii. The offender enters the polling place property and proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the offender vacates the property immediately after voting.
4. The child safety zone also serves as an elementary or secondary school lawfully attended by an offender as a student, under which circumstances the offender who is a student may enter upon that property supporting the school at which he or she is enrolled, as is reasonably required for the educational purposes of the school.
5. *The offender is transporting the offender's natural or adopted child(ren) or natural or adopted grandchild(ren) to or from school or a child care facility.*
6. *The Chief of Police has granted the offender a temporary exception. The Chief of Police is authorized to grant a temporary exception to the child safety zone restrictions to allow an offender to be within a child safety zone temporarily for a special event at or within a child safety zone involving the offender's natural or adopted child, natural or adopted grandchild, or spouse. For example, with permission of the Chief of Police an offender may attend their child's extracurricular activity in a public park.*

Section 8. 208-27(5) Violations and Penalties.

Any person who violates the provisions of this chapter shall be subject to a 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. The City may also seek equitable relief to gain compliance.

Section 9. 208-27(6) 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 ordinance irrespective of whether or not one or more provisions may be declared

invalid. If any provision of this ordinance or the application to any person or circumstance is held invalid, the remainder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

Section 10. 208-27(7) Appeal.

- (a) Option to Appeal. An offender or property owner may seek an exemption from this ordinance by appealing to the Sex Offender Residence Board.
- (b) Membership. The Board shall consist of five citizens, three of whom shall constitute a quorum. The Mayor shall annually, between the last Monday of April and the first Monday of May, appoint members for a term of two years, subject to confirmation by the Council.
- (c) Procedure. The Board shall approve an official appeal form. An offender shall completely fill in the official form and submit it to the City Clerk, who shall forward it to the Board, which shall receive reports from the Police Department on such appeal. The Board shall then convene and consider the public interest as well as the offender's presentation and concerns. The Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be conditional or limited to a certain address or time. After deliberation, the Board shall forward its decision, in writing, to the offender and the City of Jefferson Police Department for their information and action.

Section 11. This ordinance shall take effect after passage, publication, and attestation as provided by law.