

ORDINANCE NO.:

**239-25**

**THE VILLAGE BOARD OF THE VILLAGE OF LENA, WISCONSIN**, do ordain that CHAPTER 239 PEACE AND GOOD ORDER, ARTICLE II Offenses Against Public Safety and Peace is hereby amended to add the following sub-section:

**§ 239-25 Sexual Offender Residency Restrictions.**

A. Findings and Intent.

- (1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (2) It is the intent of this ordinance not to impose a criminal penalty, but rather to serve the Village's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Village by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

- (1) Child. A person under the age of 16 for the purposes of this ordinance.
- (2) Designated Offender. Any person-who is required to register under Wis. Stat. §301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. §301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. §301.46(2) & (2m).
- (3) Minor. A person under the age of 17.

- (4) Permanent Residence. A place where the person abides, lodges or resides for fourteen (14) or more consecutive days.
- (5) Temporary Residence. A place where the 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 a 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 which is not the person's permanent residence.

C. Sexual Offender and Sexual Predator Residence Prohibition; Penalties; Exceptions.

- (1) Prohibited Location of Residence. It is unlawful for any designated offender to establish permanent residence or temporary residence within 500 2000 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village as a place where children are known to congregate.
- (2) Prohibited Activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.
- (3) Measurement of Distance.
  - (a) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of a school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village where children are known to congregate.
  - (b) The Village Clerk shall maintain an official map showing prohibited locations as defined by this ordinance. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.
- (4) Penalties. A person who violates this section shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation. The Village may also seek equitable relief.
- (5) Exceptions. A designated offender residing within a prohibited area as described in Section C. (1) does not commit a violation of this section if any of the following apply:

- (a) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. §301.45 before the effective date of this ordinance.
- (b) The person is a minor and is not required to register under Wis. Stat. §301.45 or §301.46.
- (c) The school, licensed day care center, library, park, trail, playground, place of worship, or any other place designated by the Village as a place where children are known to congregate within 250 feet of the persons permanent or temporary residence was opened after the person established the permanent or temporary residence and reported and registered the residence pursuant to Wis. Stat. §301.45.
- (d) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children provided that such parent, grandparent, sibling, spouse or child established the residence at least two (2) years before the designated offender established residence at the location.

D. Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.

- (1) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a temporary or permanent residence by a person prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, part thereof, trailer or conveyance is located within a prohibited location zone described in C. (1).
- (2) A property owner's failure to comply with the provisions of this Section shall constitute a violation of this Section, and shall subject the property owner to the penalties contained in Section C. (4) of this ordinance.

E. Property Owners and Sales Agents Prohibited from Selling Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.

- C1) It is unlawful for any owner, real estate broker, or real estate sales person to participate in the sale of any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a temporary or permanent residence by a person prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, part thereof, trailer or conveyance is located within a prohibited location zone as described in Section C. (1).
- (2) Failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject the person violating this section to the code enforcement provisions procedures as provide in this ordinance.

- F. Appeal. The above requirements may be waived with the approval of the Village Board upon appeal by the affected party. Such appeal shall be made to the Village Board which shall receive reports from the Police Department on such appeal. The Board shall have authority to make the decision on the applicant's appeal, with said decision to be final.
- G. Repeal of Inconsistent Ordinances. All existing ordinances, parts of ordinances, and amendments thereto in conflict with any of the provisions of this ordinance are hereby repealed.
- H Severability. The provisions of this ordinance shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. if any provisions 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.

Revised: 08/20/2015

Adopted at the Village Board Meeting 08/20/2015.