

ORDINANCE #18-1
AN ORDINANCE TO CREATE TITLE 11, CHAPTER 7 OF THE VILLAGE OF COLFAX MUNICIPAL CODE

The village board of the Village of Colfax do ordain as follows:

SECTION I – AUTHORITY

The Board of Trustees of the Village of Colfax, Dunn County, Wisconsin, has authority to enact this ordinance pursuant to Wis. Stat. § 61.34.

SECTION II – REVISIONS TO VILLAGE CODE

Title 11, Chapter 7 of the Village Code of Ordinances, shall be created to read as follows:

“CHAPTER 7

Sex Offender Residency Restrictions

- 11-7-1 Declaration of Purpose
- 11-7-2 Definitions
- 11-7-3 Prohibited Acts in Restricted Zones
- 11-7-4 Residency Restrictions
- 11-7-5 Preparation of Map
- 11-7-6 Prohibited Activity
- 11-7-7 Prohibition of Sale or Rental of Property to Designated Offenders
- 11-7-8 Accountability Program
- 11-7-9 Severability
- 11-7-10 Enforcement; Violations and Penalties

SEC. 11-7-1 DECLARATION OF PURPOSE.

This chapter is a regulatory measure aimed at protecting the health and safety of children in the Village of Colfax from the risk that convicted sex offenders may reoffend in locations close to their residences and close to where children congregate. Further, this measure is intended to enhance the community's citizen observation and reporting of individuals who may pose a threat to children by “grooming behaviors.” The Village of Colfax finds and declares that in addition to schools and state-licensed child day-care centers, children congregate or play in a number of public places, including public parks, athletic fields, libraries, and other places.

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 designating locations where children regularly congregate wherein certain sexual offenders and sexual predators are prohibited from entering as well as zones around such locations in which such persons are restricted from establishing temporary or permanent residences.

SEC. 11-7-2 DEFINITIONS.

The following words, terms, and phrases, when used in this chapter, shall be defined as follows, except when the context clearly indicates a different meaning:

- (a) CHILD or CHILDREN — A person under the age of 18.
- (b) DESIGNATED OFFENDER — Includes any or all of the following persons: (1) A person required to register as a sex offender under Wis. Stat. § 301.45, if the sex offense which required registration involved a child; (2) a person subject to the sex crimes commitment provisions of Wis. Stat. § 975.06; or (3) a sexually violent person as defined in Wis. Stat. § 980.01(7).
- (c) GROOMING BEHAVIOR — Actions deliberately undertaken by an offender with the aim of befriending a child in order to lower the child's sexual inhibitions or establish an intimate friendship in preparation for a sexual act with the child.
- (d) LOITER-FREE ZONE — The three-hundred-foot radius surrounding each restricted zone.
- (e) LOITER or LOITERING — Whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.
- (f) RESIDENCE or RESIDE — Any place where a designated offender, either temporarily or permanently, sleeps, lodges, or abides.
- (g) RESTRICTED ZONE — The building, facilities and improvements, and the legal parcel of real property on which they are situated, to the extent the property is within the Village of Colfax, that are used for or which support a use set forth as follows:
 - (1) A public park, parkway, parkland, or park facility;
 - (2) A public swimming area, including without limitation those near Stuart Park and J.D. Simons Park;
 - (3) A public library;
 - (4) A recreational trail;
 - (5) A public playground;
 - (6) A school for children;
 - (7) Athletic fields used by children;
 - (8) A state-licensed commercial day-care center;
 - (9) Any specialized school for children, including but not limited to a gymnastics academy, dance academy, music school or charter school;
 - (10) Aquatic facilities open to the public; and
 - (11) Any facility for children [which means a public or private school, a group home as defined in Wis. Stat. § 48.02(7), a residential care center for children and youth as defined in Wis. Stat. § 48.02(15d), a shelter care facility as defined in Wis.

Stat. § 48.02(17), a foster home as defined in Wis. Stat. § 48.02(6), a day-care center licensed under Wis. Stat. § 48.65, a day-care program established under Wis. Stat. § 120.13(14), a day-care provider certified under Wis. Stat. § 48.651, or a youth center as defined in Wis. Stat. § 961.01(22)].

- (h) WISCONSIN STATUTES and WIS. STAT. — The Wisconsin Statutes in effect when this chapter is adopted and shall include any amendment to or renumbering of the statutes after the adoption of this chapter.

SEC. 11-7-3 PROHIBITED ACTS IN RESTRICTED ZONES.

- (a) Within a restricted zone(s) no designated offender shall:
- (1) Enter or be present in any restricted zone that is a public playground, school for children, or a day-care center.
 - (2) Enter or be present in any other restricted zone between the hours of 6:00 a.m. and 11:30 p.m. or at any time when a child is present.
 - (3) Loiter within a loiter-free zone.
- (b) A designated offender does not violate this chapter if any of the following apply:
- (1) If the designated offender has official business in the restricted zone, which is determined by the reasonable person standard and such official business is not otherwise prohibited by law, regulation, or other order.
 - (2) If the designated offender enters or is present in a restricted zone that includes a church, synagogue, mosque, temple or other house of religious worship (collectively “church”), but only if the following conditions are all satisfied:
 - a. The entrance and presence upon the property occurs only during hours of worship or other religious program or service as posted to the public;
 - b. The designated offender shall not participate in any religious education programs which include children; and
 - c. Such entrance or presence is not otherwise prohibited by law, regulation, or other order.
 - (3) If the designated offender enters or is present in a restricted zone to attend an event involving the designated offender's natural or adopted children, or stepchildren, but only if the following conditions are all satisfied:
 - a. Entrance and presence in the restricted zone occurs only during hours of activity related to the event as posted to the public;
 - b. Notice, orally or in writing, is given to a person in charge of the event of the designated offender’s attendance prior to the event; and
 - c. Such entrance or presence is not otherwise prohibited by law, regulation, or other order.
 - (4) If the designated offender enters or is present at a polling location in a restricted

zone for the purpose of voting in any local, state or federal election, but only if the following conditions are all satisfied:

- a. The person is eligible to vote;
- b. The polling location is the designated polling place for the designated offender; and
- c. 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.

(5) If the designated offender enters or is present in a restricted zone that supports an elementary or secondary school that the designated offender currently attends, but only if the designated offender's presence is required for educational purposes and such entrance or presence is not otherwise prohibited by law, regulation, or other order.

SEC. 11-7-4 RESIDENCY RESTRICTIONS.

- (a) A designated offender shall not reside within 1,000 feet of a school for children or within 500 feet of any other restricted zone. The distance shall be measured by following a straight line from the closest boundary line of the real property supporting the residence of a designated offender to the closest real property boundary line of the restricted zone.
- (b) Exceptions. A designated offender residing within 1,000 feet of the real property consisting of a school for children, or within 500 feet of the real property comprising any other restricted zone, does not violate section 11-7-4(a) if any of the following apply:
 - (1) The person has established a residence prior to the effective date of this chapter which is within 1,000 feet of a school for children or within 500 feet of any other restricted zone.
 - (2) If a residence of a designated offender which was established prior to the effective date of this chapter no longer complies with section 11-7-4(a) because it is located within 1,000 feet of a school for children or within 500 feet of any other restricted zone, as applicable.
 - (3) The designated offender is a minor or ward under guardianship.
 - (4) The designated offender is living in an assisted facility or nursing home.

SEC. 11-7-5 PREPARATION OF MAP.

The Village Clerk shall maintain an official map showing the areas in which designated offenders are prohibiting from residing. The Village Clerk shall update the map at least annually to reflect any changes. The map is to be displayed or available in the office of the Village Clerk.

SEC. 11-7-6 PROHIBITED ACTIVITY.

It is unlawful for any designated offender to participate in a holiday event involving children,

such as distributing candy or other items to children on Halloween, wearing a Santa Clause costume, or wearing an Easter Bunny costume. Holiday or costumed events in which the designated offender is the parent or guardian of the children involved and no non-familial children are present, are exempt from this section.

SEC. 11-7-7 PROHIBITION OF SALE OR RENTAL OF PROPERTY TO DESIGNATED OFFENDERS.

- (a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance (“Structure”), with the knowledge that a designated offender will reside in that Structure, if the designated offender is prohibited from residing in the Structure under this chapter.
- (b) 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, (“Structure”), with the knowledge that a designated offender will reside in that Structure, if the designated offender is prohibited from residing in the Structure under this chapter.

SEC. 11-7-8 ACCOUNTABILITY PROGRAM.

- (a) The Colfax Police Department may establish and maintain Department policy and procedures to verify the registered address of designated offenders and to identify those designated offenders not in compliance with the Wisconsin Department of Corrections Sex Offender Registry.
- (b) Designated offenders shall provide the Colfax Police Department or any official law enforcement officer requesting the same with current photograph and address, employment location, vehicle description(s), and other related information that may be deemed appropriate and lawful.

SEC. 11-7-9 SEVERABILITY.

The provisions of this chapter shall be deemed severable and it is expressly declared that the Board of Trustees would have passed the other provisions of this chapter irrespective of whether or not one or more provisions may be declared invalid. If any provision of this chapter or the application to any person or circumstance is held invalid, the remainder of this chapter or the application of such other provisions to other persons or circumstances shall not be affected.

SEC. 11-7-10 ENFORCEMENT; VIOLATIONS AND PENALTIES.

- (a) It shall be unlawful for any person to willfully obstruct, hinder, or delay the enforcement of any order, rule, regulation, or plan issued pursuant to this chapter or to do any act forbidden by any order, rule, regulation, or plan issued pursuant to the authority contained in this chapter.
- (b) Any person violating a provision of this chapter shall, upon conviction thereof, be subject to 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.

(c) The Village may seek injunctive relief and neither the issuance of a citation nor the imposition of a forfeiture hereunder shall preclude the Village from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this chapter.”

SECTION III --- PUBLICATION, POSTING AND EFFECTIVE DATE

This ordinance shall be effective upon publication as required by Wis. Stat. § 61.50(3).

Adopted this _____ day of _____, 2018.

VILLAGE OF COLFAX

Gary Stene, Village President

Attest: _____
Lynn Niggemann, Village Clerk