

**TOWN OF ATHELSTANE
PUBLIC MORALS AND DECENCY
ORDINANCE #28**

WHEREAS, the Wisconsin State Statutes provide for the punishment, treatment and supervision of persons convicted or otherwise responsible for sex crimes against children, including their release into the community; and

WHEREAS, Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender, and specifically, at Sec. 980.08, Stats., following such commitment, under certain conditions, provides for the supervised release of such persons into the community; and

WHEREAS, sex offenders have very high recidivism rates, and according to 1997 and 2003 reports by the U.S. Department of Justice, sex offenders are the least likely to be cured and the most likely to reoffend and prey on the most innocent members of our society, and more than two-thirds of the victims of rape and sexual assault are under the age of 18 and sex offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon; and

WHEREAS, the Town Board of Athelstane having considered this proposed ordinance to provide residency and other restrictions for sexual offenders to further protect children, and upon all of the records, files, reports and proceedings pertaining to the subject matter, and all of the prior actions and experience of the Town of Athelstane in protecting the community from sexually violent persons, finds this ordinance will serve to protect the health, safety and welfare of the community.

Section 2.12 SEXUAL OFFENDER RESIDENCY RESTRICTIONS

It is the intent of this article not to impose a criminal penalty but rather to serve the Town of Athelstane's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Town 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 Article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

a. **Child** means a person under the age of 16 for the purposes of this article.

b. **Designated Offender** means any person who is required to register under Wis. Stat. ss 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. ss 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. ss 301.46 (2) and (2m).

c. **Minor** means a person under the age of 17.

d. **Permanent Residence** means a place where the person abides, lodges, or resides for 14 or more consecutive days.

e. **Temporary Residence** means a place where the person abides, lodges, or resides for a period of 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, lodge, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

Sexual offender and sexual predator residence; prohibition; penalties; exceptions.

(a) Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, park recreational trail, playground or place of worship.

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(b) 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. 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. Participation is to be defined as actively taking part in the event.

(c) Measurement of distance. 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 permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, recreational trail, playground or place of worship.

(d) Penalties. A person who violates any provision of this article shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this article constitutes a separate violation. The Town of Athelstane may also seek equitable relief.

(e) Exceptions. A designated offender residing within a prohibited area as described in Section 2.12(3) (a) does not commit a violation of this section if any of the following apply:

- (1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. ss 301.45 before the effective date of this article.
- (2) The person is a minor and is not required to register under Wis. Stat. ss 301.45 or ss 301.46.
- (3) The school, licensed day care center, park, recreational trail or playground within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. ss 301.45.
- (4) 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 years before the designated offender established residence at the location.