

**TOWN OF ATHELSTANE  
PUBLIC MORALS AND DECENCY  
ORDINANCE #23**

**PURPOSE**

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 1 – 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 “safe” areas around locations where children regularly congregate in concentrated numbers.

**SECTION 2 - 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. 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 persons permanent address or a place where the person routinely abides, lodges or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the persons permanent residence.

**SECTION 3 – SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE, PROHIBITION, PENALTIES AND 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 licensed day care, park, playground or place of worship.
- B. Prohibited activity.** It is unlawful for any designated offender to participate in a holiday even 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 the nearest outer property line of licensed day care center, park, playground or place of worship.
- D. Penalties.** A person who violates any provision of this article shall be punished by a forfeiture of not less than \$100.00 and not exceeding \$500.00 for each offense, plus those costs of prosecution permitted by Wisconsin statute. Each day a person maintains a residence in violation of this article constitutes a separate violation.
- 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 301.34 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 licensed day care center, 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 child registered the residence pursuant to Wis. Stat. ss 301.45.
  4. The residence is also the primary residence of the persons 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.

**SEVERABILITY**

In the event that any section or sections herein shall be ruled unconstitutional by any competent court, such determination shall not affect the validity or effectiveness of the others sections of this Ordinance and the remainder of said Ordinance shall remain in effect.

This ordinance adopted by the Town Board of the Town of Athelstane on this 9<sup>th</sup> day of February, 2016.

The Town Board of Athelstane

By: \_\_\_\_\_ Attest \_\_\_\_\_  
John Dobratz - Chairman Janice DuChateau - Clerk

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Harold Tesch Jr - Supervisor

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David Jose - Supervisor