

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

CHAPTER 10 - PUBLIC PEACE AND GOOD ORDER

10.01 TOWN PROSECUTION; REFERRALS TO DISTRICT ATTORNEY

(1) PROSECUTION OF ORDINANCES. To the extent that jurisdiction exists in Municipal Court, violations of this Code of Ordinances shall be prosecuted by the Town Prosecutor in Municipal Court as municipal ordinance violations, and not as criminal violations.

(2) REFERRAL TO DISTRICT ATTORNEY. Notwithstanding TCG 10.01(1), nothing in this Code of Ordinances shall prevent the Police Department or the Town Prosecutor from referring violations of this Code of Ordinances to the District Attorney's office, where such referral is in the interest of justice or where otherwise required by law.

(3) EFFECTIVE DATE.

(a) The original TCG Chapter 10 – Public Peace and Good Order ordinance was adopted on 7 Jun 1993. The section was amended on February 19, 2007, and October 1, 2012.

(b) This amendment shall take effect upon passage and publication.

10.02 DEFINITIONS OF TERMS; STATE STATUTES INCORPORATED BY REFERENCE

(1) DEFINITIONS. The definitions of words and phrases contained in the Wisconsin State Statutes¹ that are incorporated in this Code of Ordinances, are hereby adopted and made a part of this Code of Ordinances with the same force and effect as if fully reprinted herein. The following terms used in this Code of Ordinances are incorporated as set forth below:

(a) Attempt. (*See also, Wis. Stat. 939.32*)

1. Whoever attempts to commit an act prohibited by this Code of Ordinances may be required to forfeit amounts not to exceed one-half ($\frac{1}{2}$) the maximum penalty for the completed act.
2. An attempt to commit an act prohibited by this Code of Ordinances requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that the actor does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

(b) Parties to Acts Prohibited in the Code of Ordinances

(c) Whoever is concerned in the commission of an act prohibited by this Code of Ordinances, is a principal and may be charged with and convicted of the commission of said act although the person did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.

1. A person is concerned in the commission of an act prohibited by these ordinances if he or she:
 - a. Directly commits the act; or
 - b. Intentionally aids and abets the commission of it; or

¹See, for example, Wis. Stat. 939.22.

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- c. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his or her mind and no longer desires that the act be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

(d) Intent. As used herein, "intent" means the same as the term "criminal intent" when used in the Wisconsin Statutes.

(e) Offense. As used herein, "offense" means the same as the terms "crime," "felony," or "misdemeanor" when used in the Wisconsin Statutes.

(2) WISCONSIN STATE STATUTES ADOPTED BY REFERENCE AND SUBJECT TO FORFEITURE

The following Wisconsin Statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Town of Cottage Grove. Any future amendments, revisions or modifications of the Wisconsin Statutes incorporated herein by reference, and Wisconsin Administrative Code provisions related thereto, are intended to be made part of this Code of Ordinances. For convenience, ordinances incorporating the Wisconsin Statutes may be referred to using the prefix "10" and the Wisconsin Statute. That is, as TCG 10- _____ (*insert Wisconsin Statute number*).

29.288	Throwing Refuse in Waters
48.983	Use of Tobacco Products
50.58	Careless Smoking
118.07	Safety Requirements
118.08	School Zones; Crossings
118.09	Safety Zones
118.10	School Safety Patrols
118.105	Control of Traffic on School Premises
118.11	School Fences
118.123	Reports and Records
118.163	Truancy
134.65	Cigarette and Tobacco Products Retailer License
134.66	Restrictions on Sale or Gift of Cigarettes or Tobacco Products
167.10	Regulation of fireworks.
167.30	Use of firearms near parks.
167.31	Safe use and transportation of firearms and bows.
175.25	Illegal storage of junk vehicles.
254.92	Underage Possession of Tobacco Products

Ch. 938 Juvenile Justice Code

Including, in particular, but not limited to the following:

938.17	Jurisdiction—Civil Law and Ordinance Violations
938.342	Dispositions—Truancy and School Dropout Ordinance Violations
938.343	Dispositions—Civil Law and Ordinance Violations

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- 938.344 Dispositions—Intoxicating Liquor and Beer Violations
- 938.345 Disposition of Child Adjudged in Need of Protection

Ch. 939 Crimes, Generally

Including, in particular, but not limited to the following:

- 939.05(2)(b) Aiding and Abetting
- 939.22 Words and Phrases Defined

Ch. 940 Crimes—Life and Bodily Security

Including, in particular, but not limited to the following:

- 940.19(1) Battery
- 940.291 Failure of a Police Officer to Render Aid

Ch. 941 Crimes---Public Health and Safety

Including, in particular, but not limited to the following:

- 941.01 Negligent Operation of a Vehicle
- 941.10 Negligent Handling of Burning Materials
- 941.12(2), (3) Interfering With or Failing to Assist in Firefighting
- 941.13 False Alarms and Interference with Firefighting
- 941.20(1) Reckless Use of Weapon
- 941.23 Carrying Concealed Weapon
- 941.235 Carrying a Firearm in a Public Building
- 941.24 Possession of Switchblade Knife
- 941.35 emergency Telephone Calls
- 941.36 Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
- 941.37(1), (2) Obstructing Emergency or Rescue Personnel

Ch. 942 Crimes Against Reputation, Privacy and Civil Liberties

Including, in particular, but not limited to the following:

- 10-942.05 Opening Letters

Ch.943 Crimes---Property

Including, in particular, but not limited to the following:

- 943.01(1) Criminal Damage to Property
- 943.11 Entry Into Locked Vehicle
- 943.125 Entry Into Locked Coin Box
- 943.13 Trespass to Land
- 943.14 Trespass to Dwellings
- 943.145 Criminal Trespass to a Medical Facility
- 943.15 Entry Into Locked Site
- 943.20(3)(a) Theft of Property
- 943.21(3)(a) Fraud on Innkeeper
- 943.22 Cheating Tokens
- 943.23(4), (5) Operating Vehicle Without Owner's Consent
- 943.34(1)(a) Receiving Stolen Property
- 943.37 Alteration of Property Identification Marks
- 943.38(3) Forgery
- 943.41 Credit Card Crimes
- 943.50(4)(a) Retail Theft

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943.55 Removal of a Shopping Cart

Ch. 944 Crimes---Sexual Morality

Including, in particular, but not limited to the following:

- 944.15 Fornication
- 944.17 Sexual Gratification
- 944.20 Lewd and Lascivious Behavior
- 944.21 Obscene Material or Performance
- 944.23 Making Lewd, Obscene or Indecent Drawings
- 944.30 Prostitution
- 944.31 Patronizing Prostitutes
- 944.33 Pandering
- 944.36 Solicitation of Drinks Prohibited

Ch. 945 Gambling

Including, in particular, but not limited to the following:

- 945.01 Definitions Relating to Gambling
- 945.02 Gambling
- 945.04 Permitting Premises to be Used for Commercial Gambling

Ch. 946 Crimes---Government and Administration

Including, in particular, but not limited to the following:

- 946.40 Refusing to Aid Officer
- 946.41 Resisting or Obstructing Officer
- 946.42(2) Escape
- 946.46 Encouraging Violation of Probation or Parole
- 946.69 Falsely Assuming to Act as Public Officer or Employee
- 946.70 Impersonating Peace Officer
- 946.72(2) Tampering with Public Records and Notices

Ch. 947 Crimes Against Public Peace, Order and Other Interests

Including, in particular, but not limited to the following:

- 947.01 Disorderly Conduct
- 947.012 Unlawful Use of Telephone
- 947.013 Harassment
- 947.047 Littering Shores
- 947.06 Unlawful Assemblies

Ch. 948 Crimes Against Children

Including, in particular, but not limited to the following:

- 948.01 Definitions Relating to Crimes Against Children
- 948.09 Sexual Intercourse With a Child Age 16 or Older
- 948.10 Exposing a Sex Organ
- 948.11(1)(b) Exposing a Child to Harmful Material
- 948.21 Neglecting a Child
- 948.40 Contributing to the Delinquency of a Child
- 948.50 Strip Search by School Employee
- 948.51(3)(a) Hazing
- 948.60 Possession of a Dangerous Weapon by a Child
- 948.61(2)(a) Dangerous Weapons on School Premises

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948.63 Receiving Property From a Child

Ch. 951 Crimes Against Animals

Including, in particular, but not limited to the following:

- 951.01 Definitions Relating to Crimes Against Animals
- 951.015 Construction and Application
- 951.02 Mistreating Animals
- 951.03 Dognapping or Catnapping
- 951.04 Leading Animal from Motor Vehicle
- 951.05 Transportation of Animals
- 951.06 Use of Poisonous and Controlled Substances
- 951.07 Use of Certain Devices Prohibited
- 951.08 Instigating Fights Between Animals
- 951.09 Shooting at Caged or Staked Animals
- 951.10 Sale of Baby Rabbits, Chicks and Other Fowl
- 951.11 Artificially Colored Animals; Sale
- 951.13 Providing Proper Food and Drink to Confined Animals
- 951.14 Providing Proper Shelter
- 951.15 Animals; Neglected or Abandoned; Police Powers
- 951.16 Investigation of Animal Cruelty Complaints
- 951.17 Reimbursement for Expenses

Ch. 961 Uniform Controlled Substances Act

Including, in particular, but not limited to the following:

- 961.41 Possession, manufacture or delivery of marijuana, 25 grams or less, or other controlled substances.
- 961.573(1)-(2) Possession of drug paraphernalia.
- 961.574(1)-(2) Manufacture or delivery of drug paraphernalia.
- 961.575(1)-(2) Delivery of drug paraphernalia to a minor.
- 961.576 Advertisement of drug paraphernalia.

(3) EFFECTIVE DATE.

(a) The original TCG Chapter 10 – Public Peace and Good Order ordinance was adopted on 7 Jun 1993. The section was amended on February 19, 2007, and October 1, 2012.

(b) This amendment shall take effect upon passage and publication.

10.03 GENERAL PROHIBITIONS

(1) Damage to or Destruction of Property Prohibited.

(a) No Damage or Destruction. No person shall willfully damage, injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the Town of Cottage Grove, the Cottage Grove Fire Department, the Cottage Grove Police Department or the EMS serving the Town of Cottage Grove, or to any private person without the consent of the owner or proper authority. The term “property” includes, but is not limited to, building, windows, street or building lamps, fences, equipment, trucks or vehicles, tools, apparatus, benches and tables, signs, bridges, structures, trees, shrubs, flowers, landscaped areas, turf, ornaments, statues, or other property.

(b) No Posting; Defacing. No person or organization shall place or permit to be placed any

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sign, poster, advertisement, notice, or other writing upon any structure belonging to the Town without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this ordinance.

(c) Personal and Parental Liability. All persons who engage in prohibited damage or destruction of property shall be liable therefor. Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage to or destruction of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00).

(2) Trespass to a Dwelling or Land.

(a) Trespass to Land. No person shall enter or remain on any land after having been notified by the owner or duly authorized occupant (such as a tenant) not to remain on the premises.

(b) Trespass to Dwelling. No person shall intentionally enter or remain in the dwelling of another without the consent of the owner or duly authorized occupant (such as a tenant) who is otherwise lawfully able to grant permission to enter and remain upon the premises. Trespass often occurs under circumstances tending to create or provoke a breach of the peace.

(3) Littering Prohibited.

(a) Littering Prohibited. No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Town of Cottage Grove, the Cottage Grove Fire Department, the Cottage Grove Police Department or the EMS serving the Town of Cottage Grove or any private person, or upon the surface of any body of water within the Town.

(b) Litter From Conduct of Commercial Enterprise.

1. *Scope.* The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
2. *Litter to be cleaned up.* Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
3. *Litter picked up at litterer's expense.* If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the Town has the option but not the obligation to arrange to have the same picked up by Town crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Town Attorney, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) Depositing of Materials Prohibited.

It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material,

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foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Town Board or Director of Public Works pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(d) Abandoned Refrigerators Prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his/her agent and is securely locked or fastened.

(4) EFFECTIVE DATE.

(a) The original TCG Chapter 10 – Public Peace and Good Order ordinance was adopted on 7 Jun 1993. The ordinance was amended on February 19, 2007, and October 1, 2012.

(b) This amendment shall take effect upon passage and publication.

10.04 LOITERING

(1) LOITERING OR PROWLING

(a) No person shall loiter or prowl, at a time, or in a place or manner not usual for law abiding persons; under circumstances that warrant alarm for the safety of persons, or property in the vicinity.

(b) No person, group, or crowd shall loaf, lounge, or loiter within the town limits in such a manner as to prevent, interfere with, or obstruct the free use of any street, parking lot, sidewalk, highway, roadway crossing, bridge, business, or property, either public or private.

(c) No person, group, or crowd shall loaf, or loiter in any area described in (b) without invitation from the owner, or person having authority over such places; after first being requested to move by any police officer, or by any person in authority at such place.

(2) PENALTY FOR VIOLATION

Violations of this ordinance shall be punishable as class C forfeitures, under s. TCG 25.04.

(3) EFFECTIVE DATE

This section shall take effect upon passage and publication.

10.05 REGULATED USE OF PUBLIC PARKS

(1) PROHIBITED ACTS

(a) No person shall operate, or park a vehicle in a public park within the town limits, outside of a designated right-of-way established for such use, without first obtaining written permission from the town chair, or any person so designated by the chair. For purposes of this ordinance, the term vehicle includes, but is not limited to: agricultural equipment, all-terrain vehicles, mopeds, motor vehicles, motorcycles and snowmobiles.

(b) No person may ride, lead, or fail to prevent a horse from being in any public park within

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the town limits; contrary to a posted notice.

(c) No organized event shall take place in a public park within the town limits without permission of the town board. This includes, but is not limited to, competitive sport games or practice sessions, parties, etc, and the placing of any structure (e.g. goals, tent, portable toilet, etc.) in a public park. An administrative fee, set by resolution of the town board, shall be paid to the town treasurer prior to town board's consideration of any organized event. Upon approval of the event, the event organizers shall be required to sign a hold harmless agreement to indemnify the town. At the town board's discretion, a security deposit may be required from the organizers of the event, which will be returned after the event provided the town does not have any expenses relating to clean-up or repair as a result of the event.

(2) PENALTY FOR VIOLATION

Violations of this ordinance shall be punishable as class B forfeitures, under s. TCG 25.04.

(3) EFFECTIVE DATE

(a) This section was originally adopted on July 19, 1993, and amended on March 15, 2010.

(b) This section shall take effect upon passage and publication as required under s. 60.80, Wis. Stats.

10.06 TRESPASS

(1) PROHIBITED ACTS

(a) No person may be on any private property, or in any dwelling or business establishment without the express or implied consent of the owner or the owner's authorized agent or representative.

(b) No person may remain on any private property, or in any dwelling or business establishment after consent to remain has been expressly withdrawn by the owner or the owner's authorized agent or representative.

(c) No person may be on any public property, or in any public building owned by the town, or other governmental unit or subdivision, without having obtained prior authorization; other than for those specific purposes, and during the hours, the area is held open to the public.

(d) The provisions of (a) to (c) shall apply to all acts of trespass committed within the town limits; in addition to the provisions of s. TCG 10.01(2), as they relate to criminal trespass.

(2) PENALTY FOR VIOLATION

Violations of this ordinance shall be punishable as class C forfeitures, under s. TCG 25.04.

(3) EFFECTIVE DATE

This section shall take effect upon passage and publication.

10.07 BATTERY

(1) PROHIBITED ACTIONS

No person may cause bodily harm to another by an act done with intent to cause bodily harm to that person or another, without the consent of the person so harmed.

(2) PENALTY FOR VIOLATION

Violations of this ordinance shall be punishable as class D forfeitures, under s. TCG 25.04.

(3) EFFECTIVE DATE

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This section shall take effect upon passage and publication.

10.08 REGULATION OF DISCHARGE OF FIREARMS.

(1) STATEMENT OF PURPOSE

WHEREAS, Section 66.0409(3)(b) of the Wisconsin Statutes permits towns that have been authorized to exercise Village Powers under s. 60.22 (3) Wis. Stats. to enact ordinances restricting the discharge of firearms; and,

WHEREAS, it is hereby declared that regulation of firearms is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the Town of Cottage Grove, and that existing laws are inadequate to deal with the harm to public health and safety posed by the discharge of firearms in the Town of Cottage Grove;

NOW, THEREFORE, the Town Board of the Town of Cottage Grove, Dane County, Wisconsin, does hereby ordain as follows:

(2) DEFINITIONS

(a) TOWN means the Town of Cottage Grove

(b) FIREARM has the meaning specified in s. 167.31 (1)(c), Wis. Stats.

(c) RIFLE means any firearm having a grooved (i.e. rifled) barrel that, upon discharge, projects a round or elongated projectile. Handguns, rifled barreled shotguns and muzzleloaders are not considered rifles for the purpose of this ordinance.

(3) DISCHARGE OF RIFLES DURING GUN DEER HUNTING SEASON

No person shall discharge any rimfire rifle larger than .22 caliber or any center-fire rifle .22 caliber or larger in the Town during any gun deer hunting season.

(4) DISCHARGE OF FIREARMS PROHIBITED ON PROPERTY OWNED BY THE TOWN

No person shall discharge any firearm on any property owned by the Town of Cottage Grove.

(5) EXCEPTIONS

Unless otherwise indicated, the prohibitions of this section shall not apply to:

(a) Any peace officer(s) in the performance of his, her, their duties.

(b) Any member of the U.S. armed forces or the national guard in the performance of his, her, their duties.

(c) Any private security person as defined in s. 440.26(1m)(h), Wis. Stats. who meets all of the requirements under s. 167.31(4)(a)(4), Wis. Stats.

(6) PENALTY FOR VIOLATION

Any violation of this section shall be subject to a Class D forfeiture as specified in TCG Ord. 25.04(1)(b). Each and every day such violation occurs shall be considered a separate offense.

(7) SEVERABILITY

In the event that any section of this ordinance shall be declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said section(s) were not originally a part thereof.

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(8) EFFECTIVE DATE

- (a) The original ordinance was adopted on October 7, 2008.
- (b) Ordinance amendments were adopted on October 20, 2008 and July 7, 2014.
- (c) This section shall take effect upon passage, posting and publication (when required by law).

10.09 RESERVED FOR FUTURE USE.

10.10 CHILD SAFETY AREAS.

- (1) FINDINGS AND PURPOSE OF ORDINANCE. [NOTE: The RECITALS that precede this Section are hereby incorporated by reference as if set forth in full herein, and are made a part of this Ordinance.]

This Section is a regulatory measure aimed at protecting the health, safety and welfare of children in the Town of Cottage Grove from the risk associated with having designated sex offenders in locations where children frequent. The Town finds that when a convicted sex offender reenters society, the convicted sex offender is more likely to reoffend than other convicted offenders who reenter society. The Town finds and declares that sex offenders who commit crimes against children and repeat offenders present a serious and persistent threat to public safety. The Town finds that reducing a sex offender's access to children has been found to reduce the risk of reoffending. The creation of child safety areas is intended to both protect children who are at greater risk of harm from sex offenders, and simultaneously reduce the high rate of recidivism among sex offenders by reducing access to children. The Town finds that, in addition to the protections afforded by State law near public and private schools, child safety areas need to be created within the Town where children congregate or play, including publicly owned and privately owned areas with public accommodations that cater to children and/or areas that children frequent, all as described in this ordinance. The Town finds this ordinance to be the least restrictive alternative for designated sex offenders that also meets the Town's objective of protecting the health, safety and welfare of people in the Town of Cottage Grove.

- (2) DEFINITIONS. Except where an inconsistent definition is expressly specified, the terms used in this ordinance shall be interpreted consistent with Wis. Stat. ch. 948 Crimes Against Children, Wis. Stat. §301.45 Registered Sex Offenders, and Wis. Stat. ch. 980 Sexually Violent Person Commitments. The following definitions are generally applicable:

- (a) "Child" means a person who has not attained the age of 18 years. (See Wis. Stat. §948.01(1).)
- (b) "Adult" means a person who has attained the age of 18 years or older.
- (c) "Child Congregation Area" means an area where children congregate or play, and shall include publicly owned areas, privately owned areas with public accommodations that cater to children and/or privately owned areas where and when children are present. All Child Congregation Areas are protected as child safety areas. (See also TCG Ord. s. 10.10(3) for a list of Child Congregation Areas and descriptions of the Child Safety Areas.)
- (d) "Designated Sex Offender" means a sex offender:
Who is required to register as a sex offender under Wis. Stat. §301.45; and,
Where the victim was a child; and,
Subject to one or more of the following requirements:

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1. The sex offender is placed on lifetime supervision under Wis. Stat. §939.615; and/or
2. The sex offender has been identified as a “serious sex offender” or “sexually violent person” or “sexually motivated” offender as defined by Wis. Stat. ch. 980, Wis. Stat. §939.615, or other sections of Wisconsin Statutes where such terms are defined (See Wis. Stat. §§980.01(4m), (5) and (7); or, Wis. Stat. §939.615(1)(b)); and/or
3. The sex offender is found to have committed a sex offense by another jurisdiction as defined in Wis. Stat. §301.45(1d)(am); and/or
4. The sex offender is registered as a sex offender with the federal bureau of investigation under 42 USC 14072.

Designated Sex Offenders are required to comply with this ordinance.

(e) “Permanent Residence” means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

(f) “Temporary Residence” means 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.

(3) CHILD SAFETY AREAS. No Designated Sex Offender, as defined in Section 10.10(2) above, shall violate the Child Safety Areas established by this ordinance. Two Child Safety Areas are hereby created: (a) “No Presence Areas” 250 feet from Child Congregation Areas; and, (b) “No Residence Areas” 1500 feet from Child Congregation Areas.

(a) No Presence Areas. No Designated Sex Offender, as defined in Section 10.10(2) above, shall enter upon or be present within 250 feet of any real property upon which there exists any Child Congregation Area, which includes the following:

1. Public or private school that includes students in grades of high school or below;
2. Public park;
3. Public swimming pool;
4. Public library, bookmobiles or little free libraries;
5. Public playground or neighborhood park;
6. Daycare facility for children;
7. Athletic fields used by children;
8. Aquatic facilities, swimming pools or splash parks open to the public;
9. School bus stop at those locations identified by both the school bus service and the school, as verified by the Town Clerk;
10. School primary walking routes at those locations identified by the school, as verified by the Town Clerk;
11. Facility used for school or community recreation and education programs or service groups such as the boy scouts and girl scouts;

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12. Community center that includes programming for children;
13. Facility used for recreational activities such as roller skating, ice skating, climbing, skate boarding, playground areas provided by restaurants and other facilities that include recreational activities for children;
14. The yard of a private residence on which children are playing, unless both of the following conditions is met: (a) the sex offender's permanent residence or temporary residence is located within said 250 feet; and, (b) the sex offender either remains inside the sex offender's private residence while the children are playing in the yard of the private residence or the sex offender is accompanied by a law enforcement officer who has responsibility for control of the sex offender.

(b) No Residence Areas. No Designated Sex Offender, as defined in Section 10.10(2) above, shall have a temporary residence or permanent residence within 1500 feet of any Child Congregation Area, including those listed in TCG Ord. ss. 10.10(3)(a)1. - 10.10(a)13. (inclusive). In addition, no Designated Sex Offender shall have a temporary residence or permanent residence on a property adjacent to a child's primary residence. As used here, "adjacent" means that the properties share a property line (without regard to a road) and the living quarters are not more than 1,500 feet apart.

(4) VIOLATIONS.

(a) If a law enforcement officer issues a citation for a violation of this ordinance to a Designated Sex Offender who is on lifetime supervision under Wis. Stat. §939.615, and because the Designated Sex Offender is subject to control by the Department of Corrections as set forth therein, the law enforcement officer shall advise the Department of Corrections as to the issuance of said citation. The Town finds that providing such notification is appropriate and necessary for the Department of Corrections to execute its responsibility of control over the Designated Sex Offender, which may include temporarily taking the Designated Sex Offender into custody, as set forth in Wis. Stat. §939.615(5).

(b) Violations of this ordinance shall be prosecuted as Class D Forfeitures under TCG Ord. 25.04.

(c) As provided in TCG Ord. 10.01(2), violations of this ordinance may be referred to the District Attorney for prosecution.

(d) In addition to being subject to forfeitures, violations of TCG Ord. s. 10.10(3)(a) shall constitute loitering or prowling under TCG Ord. 10.04.

(e) In addition to being subject to forfeitures, violations of TCG Ord. ss. 10.10(3)(a) and/or 10.10(3)(b) shall constitute a public nuisance under TCG Ord. 11.01 and state statutes as a matter of law. Violations may be subject to abatement as set forth in TCG Ord. 11.01. Violations may be subject to injunctive relief in circuit court.

(5) MISCELLANEOUS PROVISIONS.

(a) Distance Calculation. The distance shall be measured from the closest real property boundary line of the applicable above enumerated Child Congregation Areas. A map depicting the above enumerated Child Congregation Areas and the restriction distances, as may be amended from time to time, shall be on file in the Office of the Town Clerk for public inspection.

(b) Exceptions. Persons subject to this ordinance are not in violation where the following apply: (1) they are accompanied at all times by a minor child of which they have legal custody and the Department of Corrections or Department of Health Services has authorized the contact,

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as required by the conditions of the person's release; or (2) their presence on the property of a school is for the purpose of discussing the education of a minor child of which they have legal custody, and their presence is with the prior knowledge and consent of the school official with whom the person is meeting and the Department of Corrections or Department of Health Services has authorized the visit, as required by the conditions of the person's release; or (3) they are within a motor vehicle in transit; or (4) as to a Designated Sex Offender's permanent residence location only, the Designated Sex Offender is physically residing in the permanent residence prior to the effective date of this ordinance or any amendment thereto; or (5) enforcement is found to directly conflict with Wis. Stat. s. 980.135, which is entitled "Local restrictions; limited exemption."

(c) Severable provisions. The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

(6) This ordinance shall take effect upon passage and publication as provided by law.