

**TOWN OF COTTAGE GROVE**

**Ordinance No. 2015- 02**

**AN ORDINANCE CREATING CHILD SAFETY AREAS AND  
PRECLUDING DESIGNATED SEX OFFENDERS  
FROM RESIDING OR BEING PRESENT IN CHILD SAFETY AREAS**

**RECITALS**

**WHEREAS**, residents of the Town of Cottage Grove (“**Town**”) approached the Town Board on March 2, 2015 and requested that the Town take all reasonable precautions to protect children from harm by persons who have been convicted of sexually violent crimes against children, are being released under supervision and have been designated by the Wisconsin Department of Corrections as “**Level 3 Offenders**”<sup>1</sup>; and

**WHEREAS**, following presentation of information by various residents, the Town Chairperson, the Town Attorney and a representative of the Dane County Sheriff’s Office (“**DCSO**”), the Town Board briefly discussed the issue and referred the request to the Town’s Ordinance Committee (“**Committee**”) for review of materials, deliberation and recommendation back to the Town Board; and

**WHEREAS**, the Town Clerk has received additional information from residents, including studies regarding recidivism rates, ordinances adopted in other communities, various and ancillary impacts such as reduction in property values, which information has been distributed for review prior to the Committee meeting; and

**WHEREAS**, the Committee reviewed the materials, made findings and recommended findings to the Town Board, considered a draft ordinance and unanimously recommended that the Town adopt such an ordinance in the interest of maintaining and protecting public health, safety and welfare; and

**WHEREAS**, based on information provided by the State of Wisconsin at the community notification meeting for release of a Level 3 Offender and following consideration of input from public meetings, the Committee’s recommendations and input from the public hearing, the Town Board hereby finds that:

- (1) Persons who prey on children or commit crimes against children present a serious and present threat to public health, safety and welfare of the Town; and,
- (2) When convicted sex offenders reenter society, it is more likely that they will reoffend than persons convicted of other crimes; and,
- (3) Proximity and access to children has been determined as one factor that increases the likelihood that a sex offender will reoffend; and,

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<sup>1</sup> As used in this Ordinance, “Level 3 Offenders” are those offenders for whom DOC requires the highest level of community notification prior to release.

(4) Protecting children from those who would commit crimes against children is essential to the public health, safety and welfare of the Town; and,

(5) Regulatory measures prohibiting designated sex offenders from residing or being present in areas of the Town where children congregate are prudent and necessary to further the Town’s interest in protecting the public health, safety and welfare of the community in general and children in particular; and

(6) Adoption of such regulatory measures is a proper exercise of the Town’s police powers; and

**WHEREAS**, to provide for the public safety, health and welfare and as an exercise of its police powers, the Town Board shall create “child safety areas” that preclude designated sex offenders from residing or being present in or near those areas where children congregate, all as set forth in the ordinance.

**ORDINANCE**

**NOW, THEREFORE**, the Town Board of the Town of Cottage Grove, Dane County, Wisconsin, ordains as follows:

**SECTION 1.** Section 10.10 of the Town Code of Ordinances is hereby created to read as follows:

**10.10 CHILD SAFETY AREAS.**

(1) **FINDINGS AND PURPOSE OF ORDINANCE.** [NOTE: The RECITALS that precede this Section 10.10 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:

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” 1000 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;
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 1000 feet of any Child Congregation Area, including those listed in TCG Ord. ss. 10.10(3)(a)1. - 10.10(a)13. (inclusive).

(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, 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.

(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.

**SECTION 2.** This ordinance shall take effect upon passage and publication as provided by law.

Approved by the Town Board of the Town of Cottage Grove this 6<sup>th</sup> day of March, 2015, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

**TOWN OF COTTAGE GROVE**

**Attested By:**

\_\_\_\_\_  
Kris Hampton  
Town Chairperson

\_\_\_\_\_  
Kim Banigan  
Town Clerk

Approved as to form on this  
6<sup>th</sup> day of March, 2015.  
**ANDERSON CONSULTS, LLC**

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