

**CITY OF PLYMOUTH, WISCONSIN
Ordinance No. 9 of 2017**

**AN ORDINANCE AMENDING SECTION 11-2-17 OF THE CODE OF ORDINANCES,
CITY OF PLYMOUTH, WISCONSIN RELATED TO
SEXUAL OFFENDER RESIDENCY RESTRICTIONS.**

WHEREAS, the City is authorized to enact general regulations to promote the public health, safety and general welfare of the City and its residents, pursuant to Wisconsin Statute §62.11(5).

NOW, THEREFORE, The Common Council of the City of Plymouth does hereby ordain as follows:

Section 1. Amending Code. Sections 11-2-17 of the City of Plymouth Municipal Code is hereby amended as follows (deletions shown by strikethrough):

“SEC 11-2-17 SEXUAL OFFENDER RESTRICTIONS.

(a) Findings and Intent.

1. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the City of Plymouth from the risk that sexual offenders convicted of an offense against a child may re-offend in locations close to where children congregate. Given the high rate of recidivism for sexual offenders, and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places. Therefore, the City finds and declares that sexual offenders are a serious threat to the public safety of children if regulatory measures are not in place that prohibit their presence in specified areas designated as places children commonly congregate. The City of Plymouth finds and declares that in addition to schools and daycare centers, children congregate or play at child-oriented facilities, such as parks and playgrounds.
2. It is not the intent of this ordinance to impose a criminal penalty, but rather to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the children of the City by prohibiting convicted sexual offenders from residing, loitering or being present in specified areas around locations where children regularly congregate in concentrated numbers. It is the further intent of this ordinance to recognize that convicted sexual offenders must reenter the community, and the City of Plymouth hereby accepts that it has a responsibility to convicted sexual offenders and the surrounding area municipalities to ensure that, in addition to promoting regulatory measures aimed at protecting children, its regulatory measures are not aimed at prohibiting convicted sexual offenders from being part of this society.
3. Any resident seeking information on the location of a convicted sexual offender's residence may access the Wisconsin Sex Offender Registry online. The current website address is available from the City of Plymouth

Police Department. The Registry provides valuable information on how to protect against acts of sexual violence.

(b) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this Section, except when the context clearly indicates a different meaning:

1. Child means a person under the age of sixteen (16) for the purposes of this section.
2. Designated Offender means any person who is required to register under Wis. Stat. §301.45 and is under court ordered supervision by the Wisconsin Department of Corrections for any sexual offense against a child, unless the person is under the age of eighteen (18) at the time of the offense and the offender was not tried and convicted of the offense as an adult. This ordinance does not apply to those offenders exempted pursuant to Wis. Stat. § 980.135.
3. Loitering means, 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.
4. Minor means a person under the age of seventeen (17).
5. Zones
 - a. Restricted Zones: Certain areas that are designated by the City as areas children congregate, including, but not limited to, schools, parks, playgrounds, licensed day care centers, or any other place designated by the City as a place where children are known to congregate. Restricted Zones will not expand beyond the real estate parcel or parcel(s) upon which the building, park or establishment is located that instigated the City's designation of such Restricted Zone, but will include contiguous parcels used for ancillary purposes, such as an athletic field located adjacent to a school.
 - b. Loiter Free Zones: The 200 foot radius surrounding all Restricted Zones.
 - c. Restricted Zone Maps: An official map, maintained by the City, showing Restricted Zones designated in Red and Loiter Free Zones designated in Yellow. (the "Restricted Zone Map"). The City shall update the Restricted Zone Map at least annually to reflect any changes in the location of Restricted Zones and Loiter Free Zones. Restricted Zone Maps will be available at the City Clerk's office and on the City's official web site.
- ~~6. Permanent Residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.~~
- ~~7. 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 place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.~~

(c) **Prohibited Location and/or Acts.**

1. Restricted Zones:

a. **Restricted Zone Restrictions:** It is unlawful for any Designated Offender to be physically present within a Restricted Zone under any of the following circumstances:

- 1). When children are present or are reasonably presumed or known to be present; or
- 2). Monday through Friday, in a school or day care center Restricted Zone and between 7:00 a.m. and 11:00 p.m.; or
- 3). In a park or playground Restricted Zone and between 7:00 a.m. and 11:00 p.m.

b. **Restricted Zone Restriction Exceptions:** A Designated Offender may be physically present on any day or time within a Restricted Zone if all of the following are present:

- 1). The Designated Offender has legitimate or official business, which is determined by the reasonable person standard; and
- 2). The Designated Offender is accompanied by or is in the presence of another adult who is not a Designated Offender.
- 3). This restriction is not intended to impede normal community activities such as the following, which are illustrative only and not totally inclusive:
 - a). Attendance at church or religious services or functions, for worship, education, and fellowship.
 - b). Normal use of public facilities such as adult library, recreation and education areas, but excludes areas which are primarily frequented or used by children.
 - c). Commercial and business establishments frequented by the general public but not primarily by children unaccompanied by adults.

2. Loiter Free Zones: It is unlawful for a Designated Offender to loiter within a Restricted Zone or Loiter Free Zone.

3. Holiday Prohibition: It is unlawful for any Designated Offender to participate in a holiday event involving children under sixteen (16) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday 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 paragraph.

(d) **Penalty.** A person who violates this ordinance shall be punished by a forfeiture not exceeding \$1,000.00, together with the actual costs of prosecution.

(e) **Severability.** The provisions of this ordinance shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected.

~~(f) **Sexual Offender and Sexual Predator Residence; Prohibition; Exceptions.**~~

~~1. **Prohibited Location of Residence.** It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1,500 feet of any school, licensed day care center, park, recreational trail, playground or place of worship.~~

~~2. **Measurement of Distance.**~~

~~a. 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.~~

~~b. The City Clerk/Treasurer shall prepare an official map showing prohibited locations as defined by this Section. The City Clerk/Treasurer shall maintain the map on the file at the City Hall and update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.~~

~~3. **Exceptions.** A designated offender residing within a prohibited area as described in Section (f)1. does not commit a violation of this Section if any of the following apply:~~

~~a. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45 before the effective date of this ordinance.~~

~~b. The school, licensed day care center, park, recreational trail or playground within 1,500 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. § 301.45~~

~~c. 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 (2) years before the designated offender established residence at the location.~~

(g) **Original Domicile Restriction.** No designated offender who has been convicted of a sexually violent offense or a crime against a child shall be permitted to reside in the City of Plymouth, unless such person was domiciled in the city at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense or crime against a child, except as allowed in subsection (f)3.

~~(h) — **Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.**~~

- ~~1. — It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this article, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section (e)(1) and not subject to an exception set forth in Section (e)3.~~
- ~~2. — A property owner's failure to comply with this Section shall constitute a violation of this Ordinance and shall subject the property owner to the penalties set forth in Section (d).~~

~~(i) — **Appeal.** The above 1,500 foot requirement may be waived upon approval of the Public Safety Committee through appeal by the affected party. Such appeal shall be made in writing to the Clerk's Office, who shall forward the request to the Public Safety Committee, which shall receive reports from the City of Plymouth Police Department on such appeal. The Public Safety Committee shall convene and consider the public interest, as well as the affected party's presentation and concerns. After deliberation, the Public Safety Committee shall forward its decision in writing via the minutes or otherwise to the City of Plymouth Chief of Police for his information and action. A written copy of the decision shall be provided to the affected party.~~

~~(j) — **Notification to Property Owners.** The Chief of Police may provide notice, pursuant to Wis. Stat. § 301.46(2)5., to all owners of residential real estate located within 300 feet of a newly registered address of a registered sex offender if in the Police Chief's discretion providing that information is necessary to protect the public.~~

Section 2. Severability. Should any portion of this Ordinance or the affected Municipal Code Section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 3. Effective Date. This Ordinance shall take effect the day after publication.

Enacted on July 11, 2017.

CITY OF PLYMOUTH

DONALD O. POHLMAN, Mayor

Date: _____

CLERK'S CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the City of Plymouth Common Council and approved by the Mayor on the dates indicated above.

Dated: _____, 2017

PATRICIA HUBERTY, Clerk



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City of Plymouth

RESTRICTED ZONE MAP

February 2015

by, W Immich

 RESTRICTED AREA
 NO LOITERING AREA

