

GENERAL ORDINANCE NO. 22-12

AN ORDINANCE

REPEALING SECTION 27.620, GREEN BAY MUNICIPAL CODE, AND  
CREATING SECTIONS 27.621 AND 27.622, GREEN BAY MUNICIPAL CODE,  
RELATING TO SEXUAL OFFENDER PROXIMITY AND RESIDENCY RESTRICTIONS,

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS  
FOLLOWS:

**SECTION 1.** Section 27.620, Green Bay Municipal Code, is hereby repealed.

**SECTION 2.** Section 27.621, Green Bay Municipal Code, is hereby created to read:

**27.621 SEXUAL OFFENDER PROXIMITY RESTRICTIONS**

(1) **INTENT.** Persons who have committed sexual crimes against children present a threat to the public safety. It is the intent of this ordinance not 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 citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders may not loiter.

(2) **PROXIMITY RESTRICTION.** No person who has been convicted or found not guilty or not responsible by reason of mental disease or defect of any crime listed in Ch. 948, Wis. Stats., or any crime from another jurisdiction that is similar to any crime listed in Ch. 948, Wis. Stats., and, as a result of such crime, is required to register under § 301.45, Wis. Stats., and on extended supervision or parole, may enter any area within 150 feet of a parcel of land upon which there is a public, parochial, private, or tribal school educating one or more grades between Kindergarten and grade 12, a licensed child care center, a playground, a park, or a licensed entertainment facility.

(3) **AFFIRMATIVE DEFENSES.** Notwithstanding sub. (2), a person may prove by clear and convincing evidence as an affirmative defense to prosecution for a violation of sub. (2) that the person entered the restricted area:

- (a) To vote in a local, state, or national election or referendum;
- (b) With the ~~written~~ permission of the owner or occupant of the particular school, child care center, park, playground, or licensed entertainment facility;
- (c) With the intent to travel to a location outside the restricted area;
- (d) To travel to or remain at land lawfully owned or occupied by the offender before [city clerk inserts effective date of this ordinance] or the date the school, child care center, park, playground, or licensed entertainment facility was established;
- (e) To obtain medical care, or alcohol or drug treatment;
- (f) To travel to or remain at a transitional living program operated by an entity that is tax exempt under IRC §501(c)(3) and under contract with the Wisconsin Department of Corrections; or

(g) To travel to or remain at a care and service residential facility properly licensed, certified, or registered under Ch. 50, Wis. Stats.

(4) PENALTY. A person who violates this section shall forfeit not more than \$500.00 for each violation.

**SECTION 3.** Section 27.622, Green Bay Municipal Code, is hereby created to read:

**27.622 SEXUAL OFFENDER RESIDENCY RESTRICTIONS.**

(1) INTENT. Persons who have committed sexual crimes against children present a threat to the public safety. It is the intent of this ordinance not 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 citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders may not reside.

(2) RESIDENCY RESTRICTION. No person who has been convicted or found not guilty or not responsible by reason of mental disease or defect of any crime listed in Ch. 948, Wis. Stats., or any crime from another jurisdiction that is similar to any crime listed in Ch. 948, Wis. Stats., and, as a result of such crime, is required to register under § 301.45, Wis. Stats., may reside within 2,000 feet of a parcel of land upon which there is a public, parochial, private, or tribal school educating one or more grades between Kindergarten and grade 12, a licensed child care center, a playground, a park, or a licensed entertainment facility.

(3) AFFIRMATIVE DEFENSES. Notwithstanding sub. (2), a person may prove by clear and convincing evidence as an affirmative defense to prosecution for a violation of sub. (2) any of the following:

- (a) The offender continuously resided at the particular address since May 17, 2007;
- (b) The offender continuously resided at the particular address since the date that the particular school, child care center, playground, park or entertainment facility opened for use;
- (c) The residence is a facility which only temporarily houses individuals who have a medical, alcohol, or drug treatment need, and the offender is receiving such treatment;
- (d) The residence is a facility operated by an entity designated a non-profit under IRC § 501(c)(3) which only temporarily houses individuals by contract with the Department of Corrections as a transitional living program;
- (e) The Sex Offender Residence Board has granted an exemption for the offender.

(4) PROPERTY OWNER LIABILITY. No person may allow an offender to reside in violation of sub. (2) on property owned by the person, unless the offender is exempt under sub. (3).

(5) PENALTIES. A person who violates sub. (2) or (4) shall forfeit not more than \$500.00, and each day a person is in violation of either subsection constitutes a separate offense.

(6) APPEAL.

- (a) Option to Appeal. An offender may seek an exemption from this ordinance by appealing to the Sex Offender Residence Board.
- (b) Membership. The Board shall consist of five citizens. The Mayor shall annually, between the last Monday of April and the first Monday of May, appoint one member for a term of five years, subject to confirmation by the Council.
- (c) Procedure. The Board shall approve of an official appeal form. An offender shall completely fill in the official form and submit it to the City Clerk, who shall forward it to the Board. The Board shall hold a hearing on each appeal, during which the Board may review any pertinent information and may accept oral and written statements from any person. The Board shall base its decision on whether the offender has shown remorse, has rehabilitated, could re-offend, and any other factor related to the City's interest in promoting, protecting, and improving the health, safety, and welfare of the community. The Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time. A written copy of the decision shall be provided to the offender.

(7) 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 or the application to any person or circumstance is held invalid, the remainder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

**SECTION 4.** This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this 21st day of August, 2012.

APPROVED:

James J. Schmitt  
Mayor

ATTEST:

Kris A. Teske  
Clerk

First Reading - 6/19/12  
Effective Date - 8/25/12