

2019-02

TOWN OF BLACK BROOK
POLK COUNTY, WISCONSIN
AN ORDINANCE ESTABLISHING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS
WITHIN THE TOWN OF BLACK BROOK

The Town Board of the Town of Black Brook does ordain as follows:

SECTION I. SECTION AMENDED

Section _____, entitled "Residency Restrictions for Sex Offenders within the Town" of the Code of Ordinances of the Town of Black Brook is hereby created to read as follows:

_____ Residency Restrictions for Sex Offenders.

1. FINDINGS AND INTENT. The Town Board finds that sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Many sex offenders commit numerous offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society extremely high. The Town Board finds the risk of recidivism increases if the sex offender recently offended and if the sex offender does not have a strong social network, including community and familial ties. The Town Board is aware of many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions. The Town Board acknowledges that literature on the subject includes some studies that support the practice of sex offender residency restrictions and others that are critical of the practice. The Town Board is also aware that absent a domicile clause in its sexual offender residency restriction ordinance, the town would be providing an open door for non-resident sex offender residency when other area communities have closed doors, thereby likely inviting or enabling a substantial increase in child sex-offender placements within the Town, with the related adverse impacts on the health, safety and welfare of the town and its residents. It is the intent of this section to enact a regulatory scheme that is civil and non-punitive in order to serve the town's compelling interest to promote, protect, and improve the health, safety and welfare of the citizens of the town.

2. DEFINITIONS. For the purposes of this section:

- a. "Child" means a person under the age of 16 years.
- b. "Designated offender" means any person who is required to register under s. 301.45, Wis. Stats., for any offense against a child. This definition does not include a person who is released under s. 980.08, Wis. Stats., provided that the person is subject to supervised release under Chapter 980, Wis. Stats., the person is residing where he or she is ordered to reside under s. 980.08, Wis. Stats., and the individual is in compliance with all court orders issued under ch. 980, Wis. Stats.
- c. "Hospital" has the meaning given in s. 50.33(2)(a), Wis. Stats.
- d. "Residence" ("Reside") means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.
- e. "Treatment facility" has the meaning given in s. 51.01(19), Wis. Stats.

3. ORIGINAL DOMICILE RESIDENCY RESTRICTION. A designated offender shall not establish a residence within the town, unless the person was domiciled in the town at the time of the offense resulting in the person's most recent conviction for committing the offense that is within the definition of a designated offender.

4. RESIDENCY RESTRICTION EXCEPTIONS. A designated offender prohibited from establishing a residence within the town as specified in sub. 3 does not commit a violation of this section if the designated offender demonstrates any of the following:

- a. The person established a residence and reported and registered the residence as provided in s. 301.45, Wis. Stats., before the effective date of this ordinance, _____, 2019.
- b. The person was under the age of 18 years at the time of the offense or is a ward under guardianship.
- c. The residence is also the primary residence of the person's child, grandparent, guardian, parent, sibling or spouse.
- d. The residence is a mental health facility or a jail, juvenile facility, prison or other correctional institution where the person is required to serve a sentence.
- e. The residence is a hospital or treatment facility.
- f. The person's most recent offense that is within the definition of a designated offender occurred more than 10 years ago and it has been at least 10 years since the person was incarcerated for the most recent offense that is within the definition of a designated offender.

5. PENALTY. A designated offender who violates sub. 3 shall be subject to a forfeiture of not less than \$1,000 nor more than \$2,500 for each violation, and in default of payment may be imprisoned as provided by law. Upon conviction, each day a violation continues shall constitute a separate offense. The Town may also seek equitable relief.

_____. **Loitering of Sex Offenders.**

1. LOITERING. It shall be unlawful for any person defined as a designated offender under s. _____ of this ordinance, to loiter or prowl in a school, licensed day care center, park, recreational trail, or playground, in a place, at a time, or a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct at the school, licensed day care center, park, recreational trail, or playground. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the

explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

2. EXCEPTIONS. This section shall not apply where the actor was with his or her parent, guardian or other adult person having responsibility for his or her care, custody or control, or where that actor was exercising First Amendment rights protected by the U. S. or Wisconsin Constitutions, including freedom of speech, the free exercise of religion, or the right of assembly.

3. PENALTY. Any person violating this section upon conviction shall forfeit not less than \$500 nor more than \$5,000, and in default of payment may be imprisoned as provided by law.

SECTION II. SEVERABILITY


If any provision of this Ordinance or any application of this Ordinance to any person or circumstance is found to be invalid or unconstitutional, such a finding shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

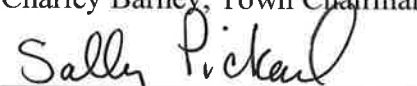
SECTION III. EFFECTIVE DATE

This Ordinance shall take effect upon passage as provided by law.

Adopted this 19 day of December, 2019.

TOWN OF BLACK BROOK


Charley Barney, Town Chairman


Sally Pickard, Town Clerk

Voted for: 3
Voted against: 0
Abstained: 0
Published: _____

Effective date: _____