

## ORDINANCE NO. 2987

AN ORDINANCE AMENDING SECTIONS 10.31 AND 10.32 OF THE MUNICIPAL CODE OF THE CITY OF GREENFIELD AS IT RELATES TO SEX OFFENDER LOITERING AND RESIDENCY RESTRICTIONS AND CREATING SECTION 1.35 TO CREATE THE SEX OFFENDER RESIDENCY APPEAL BOARD

---

A. The Wisconsin Statutes provide for punishment, treatment and supervision of persons convicted or otherwise responsible for sex crimes against children, including their release into the community.

B. Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender, and specifically, at Wis. Stat. § 980.08, following such commitment, under certain conditions, provides for the supervised release of such persons into the community.

C. According to a 1997 report titled *Sex Offenses and Offenders*, by the U.S. Department of Justice, the median age of the victims of imprisoned sexual assaulters was less than 13 years old and the median age of rape victims was 22 years; and 19% of those serving time for sexual assault and an estimated 24% of those serving time for rape had been on probation or parole at the time of the offense.

D. In 1994, it was estimated that 12% of imprisoned violent sex offenders had a prior conviction for rape or sexual assault while 61% had a prior felony for other crimes.

E. Furthermore, the Common Council has reviewed the findings of a number of State Legislatures across the United States, including, Pennsylvania, Alabama, Iowa, Florida, Maine and Louisiana, as they pertain to laws enacted which relate to, and in part impose restrictions upon sex offenders with respect to residency.

F. The Common Council has reviewed the decision of the U. S. Court of Appeals for the 8th Circuit, in *Doe v. Miller*, 405 F.3d 700, 716 (8th Cir. 2005)(Citations omitted), providing in part:

“The record does not support a conclusion that the Iowa General Assembly and the Governor acted based merely on negative attitudes toward, fear of, or a bare desire to harm a politically unpopular group. Sex offenders have a high rate of recidivism, and the parties presented expert testimony that reducing opportunity and temptation is important to minimizing the risk of re-offense. Even experts in the field could not predict with confidence whether a particular sex offender will re-offend, whether an offender convicted of an offense against a teenager will be among those who “cross over” to offend against a younger child, or the degree to which regular proximity to a place where children are located enhances the risk of

re-offense against children. One expert in the district court opined that it is just “common sense” that limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense. The policymakers of Iowa are entitled to employ such “common sense,” and we are not persuaded that the means selected to pursue the State’s legitimate interest are without rational basis.”

G. Since 2007, there have been three Wisconsin state court cases addressing the legality of sex offender residency restriction ordinances: *City of Franklin v. Steven R. Hanke*, 07-CV-9978 (Milw. County Cir. Ct. 2007), *Village of Menomonee Falls v. Ferguson*, 2011 WI App 73 (Wis. Ct. App. 2011), and *City of South Milwaukee v. Kester*, 2013 WI App 50 (Wis. Ct. App. 2013).

H. In each of the three Wisconsin cases, the courts upheld the legality and enforceability of sex offender residency restriction ordinances.

I. The City of Greenfield is a place of residence for families with children.

J. The Common Council has determined that the establishment of sex offender residency restrictions is reasonable and necessary to protect the health, safety and welfare of the residents and the Community.

BASED UPON THE FOREGOING RECITALS, THE COMMON COUNCIL OF THE CITY OF GREENFIELD, MILWAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

PART I: Sections 10.31 and 10.32 of the Greenfield Municipal Code is amended to read as shown on the attached Exhibit A (NOTE: added text is double underlined; deleted text is ~~struck through~~).

PART II: Section 1.35 of the Greenfield Municipal Code is created to read as follows:

1.35 – Sex Offender Residency Appeal Board

- (1) *Creation.* The city shall have a board known as the "Sex Offender Residency Appeal Board." The board shall consist of three citizen members and one alternate citizen member nominated by the Mayor and confirmed by the Common Council. The Mayor shall designate which member shall act as the chair.
- (2) *Powers and Duties.* The board shall hear appeals taken from a decision of the Police Chief or their designee on any application for an exemption from the provisions of section 10.32, and shall have the powers specified in section 10.32(5).
- (3) *Meetings.* Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair may administer

oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the City Clerk and shall be a public record.

PART III: 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.

PART IV: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

PART V: This Ordinance shall become effective the day after its publication as provided by law.

PASSED AND ADOPTED by the Common Council of the City of Greenfield on this 5th day of October, 2021.

APPROVED:

Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen, City Clerk

Published: October 13, 2021