

ORDINANCE No.2025A
AN ORDINANCE CREATING CHAPTER 1.33 RESIDENCE RESTRICTIONS FOR
SEX OFFENDERS
OFFENDERS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 1.33 is hereby created to read as follows:

1.33 Residence Restrictions for Sex Offenders

(1) Findings and Intent. The Common Council finds that Sex Offenders are persons who present a serious threat to public safety. Sex Offenders are extremely likely to use physical violence when they offend. Many Sex Offenders commit multiple offenses, have more victims than are reported, and are prosecuted for only a fraction of their crimes. This makes the cost of Sex Offender victimization to society great and justifies efforts to protect the public from it.

The Common Council has reviewed a 2003 study by the U.S. Department of Justice, Bureau of Justice Statistics, titled Recidivism of Sex Offenders Released from Prison in 1994. That study indicates that sex offenders released from prison were four times more likely to be rearrested for a sex crime as compared to non-sex offenders released from prison. Of those individuals included in the study, forty (40) percent of new sex crimes committed by those sex offenders released from prison had occurred within the first twelve (12) months of release. Further, child molesters who were released from prison were at least six times more likely to be rearrested for another sex crime against a child as compared to a non-sex offender released from prison.

In addition, the City Council has reviewed a 2019 study by the U.S. Department of Justice, Bureau of Justice Statistics, titled Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-2014). That study indicates that sex offenders released from prison were more than three times as likely as other released prisoners to be arrested for rape or sexual assault.

Because reducing both opportunity and temptation will minimize the risk of re-offense for those Sex Offenders who may re-commit sex offenses against children and others, there is a compelling need to separate Sex Offenders from places where children congregate or play in public places.

The Common Council is also aware that many other communities in Wisconsin, including the City of Milwaukee and the City of Brookfield, have New Resident Restrictions (see (4) below) and that if Whitewater does not have a New Resident Restrictions clause in its ordinance, it may have a disproportionately high number of new residents who are sex offenders that had not previously lived in Whitewater. This would have adverse impacts on the health, safety, and welfare of residents of the city.

It is also the intent of the Common Council to protect the safety and welfare of its citizens by creating zones around places where children regularly gather, in which certain Sex Offenders are prohibited from establishing Residence.

It is not the intent of the Common Council to impose additional punishment on Sex Offenders.

(2) Definitions. For purposes of this section:

(a) Child means a person under the age of 18 years.

(b) Child Safety Zone means an area, unless excepted by non-inclusion on the map of the Child Safety Zones (see 1.33(8)), within 750 feet of any private or public school, playground, designated parks or childcare center licensed pursuant to Wis. Stats. §48.65, within the City of Whitewater.

(c) Residence means a place where a person resides or dwells, or is used by a person as the primary location for basic life functions such as sleeping or eating; whether short or long-term but for an aggregate of 14 or more days in any one-year period.

(d) Chapter means this Municipal Code Chapter 1.33.

(e) Sex Offender, for purposes of this Chapter, means:

(i) Any person who is required to register under Wis. Stats. §301.45.

(ii) Any person committed to the state Department of Health Services for specialized treatment pursuant to Wis. Stats. §975.06.

(iii) Any person placed on lifetime supervision by the state Department of Corrections pursuant to Wis. Stats. §939.615 or §971.17(1j).

(3) Child Safety Zone Restriction. No Sex Offender shall establish or maintain a residence in the City of Whitewater within a child safety zone.

(4) New Resident Restriction. A Sex Offender shall not establish a residence within the City of Whitewater unless the person was domiciled in the city at the time of the offense resulting in the person's most recent conviction which caused the person to qualify as a Sex Offender under this ordinance.

(5) Residence Restriction, Exceptions. No Sex Offender shall establish or maintain a Residence within a Child Safety Zone, except under the following circumstances:

(a) The Sex Offender is residing where he or she is ordered to reside by a circuit court having competent jurisdiction.

(b) The Sex Offender established the Residence within a Child Safety Zone and reported and registered the Residence pursuant to Wis. Stats. §301.45 before October 14, 2021 and has continuously maintained that Residence since then. Interruptions of Residence for the following reasons shall not be deemed to disqualify continuous maintenance of Residence:

(i) Incarceration in a Wisconsin correctional facility.

(ii) Participation in programs as required by the Wisconsin Department of Corrections.

(iii) Participation in activities as required by the federal or state government, or a federal or state court.

(iv) Interruptions of no longer than 180 days, for any reason.

(c) The person is excepted from sex-offender registration pursuant to Wis. Stats. §301.45(1m).

(d) The Child Safety Zone Area first existed after the Sex Offender established Residence and reported and registered the Residence pursuant to Wis. Stats. §301.45.

(e) The Sex Offender's Residence is within a jail, juvenile facility or other correctional facility at which the Sex Offender is serving a court-ordered sentence.

(f) The Sex Offender is a minor or ward under guardianship and is residing with his or her parent or guardian.

(6) Sex Offenders Subject to Chapter 980. A Sex Offender that has been adjudicated a sexually violent person pursuant to Wisconsin Statutes Chapter 980 shall not be in violation of subsection (3) or (4) if the Sex Offender is subject to supervised release under Chapter 980, the Sex Offender is residing where he or she is ordered to reside under Wis. Stats. §980.08, and the Sex Offender is in compliance with all court orders issued under Chapter 980.

(7) Measurement of Distances. The boundaries of the Child Safety Zone shall be determined by measuring from the outer property boundary of private or public schools, playgrounds, designated parks and childcare centers to the outer property boundary of a Sex Offender's Residence. If any portion of a property is within a Child Safety Zone, then the entire property shall be deemed within the Child Safety Zone.

(8) Map of Child Safety Zones. The City shall maintain an official map showing the Child Safety Zones defined in subsection (2)(c) and shall update the map at least annually to reflect any changes.

(9) Notice. Sex Offenders shall within 30 days of this ordinance being enacted (or 10 days of establishing or changing their residence in the City of Whitewater) whichever is later, provide in writing to the City Clerk of the City of Whitewater their name, date of birth, and address.

(10) Penalty. A person who violates provisions of this ordinance shall be subject to a forfeiture of not less than \$300.00 and no more than \$1,000.00 for each violation. Each day a violation continues shall constitute a separate offense. The City may also seek equitable relief to gain compliance.

(11) Severability. It is the express intent of the Common Council that the provisions of this Chapter are severable, and that if any part of this Chapter is held invalid by a court having competent jurisdiction, then that invalid part shall be severed, and the remainder shall remain in effect and enforceable.

Ordinance introduced by Council Member Allen, who moved its adoption. Seconded by Council Member McCormick. AYES: McCormick, Brown, Majkrzak, Smith, Allen. NOES: Binnie ABSENT: Schreiber ADOPTED: October 5, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk