

**Town of Gardner**  
**Sexual Offender Residency Restrictions Ordinance**  
**Ordinance No. 01-2008**

The Town Board of Supervisors of the Town of Gardner, Door County, Wisconsin, does hereby ordain as follows:

**Section 1 – Authority.**

This ordinance is adopted pursuant to the authority granted in Wis.Stats. §60.22(1) and (3).

**Section 2 – Findings and Intent.**

- A. Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present a genuine threat to the public safety. Sexual offenders are very likely to use physical violence and to repeat their offenses.
- B. It is the intent of this ordinance not to impose a criminal penalty but rather to serve the Town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

**Section 3 – Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

- (a). Child means a person under the age of 18 for purposes of this ordinance.
- (b). Designated Offender means any person who is required to register under Wis. Stats. §301.45 for any sexual offense against a child or any person who is required to register under Wis. Stats. §301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stats. §301.46(2) and (2m).
- (c). Minor means a person under the age of 18.
- (d). Permanent Residence means a place where a person abides, lodges or resides for 10 or more consecutive days.

- (e). Temporary Residence means a place where a person abides, lodges or resides for a period of 10 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

**Section 4 – Sexual Offender and Sexual Predator Residence, Prohibition:  
Penalties: Exceptions.**

- A. Prohibited Location of Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence in the Town of Gardner within 2,500 feet of any school, licensed day care center, park, place of worship, or any other place designated by the Town as a place where children are known to congregate.
- B. Prohibited Activity. It is unlawful for any designed offender to participate in a holiday event in the Town of Gardner involving children under 18 years of age, such as distributing candy or other items to children on Halloween, and wearing seasonally holiday costumes. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.
- C. Measurement of Distance.
1. For 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 place of worship, or any other place designated by the Town where children are known to congregate.
  2. The Town Clerk shall maintain an official map showing prohibited locations as defined by this ordinance. The Clerk shall update the map regularly to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.
- D. Penalties. A person who violates this section shall be punished by a forfeiture not exceeding Five Hundred Dollars (\$500.00). Each day a person maintains a residence in violation of this ordinance constitutes a separate violation. The Town may also seek equitable relief.
- E. Exceptions. A designated offender residing within a prohibited area as described in Section (4) (a) does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. §301.45 before the effective date this ordinance. If the person moves from Town limits, that person has to appear before the Town Board to apply for residency within the Town.
2. The person is a minor and is not required to register under Wis. Stats. §301.45 and §301.46.

**Section 5 – Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.**

- A. It is unlawful to let or rent any place, structure or part thereof, trailer or other conveyance in the Town of Gardner 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 ordinance, if such place, structure, or part thereof, trailer or other conveyance is located within a prohibited location zone described in Section (4)(a).
- B. A property owner's failure to comply with provision of this section shall constitute a violation of this section and shall subject the property owner to the code enforcement provisions in Section (4)(d) as provided in this ordinance.

**Section 6 – Appeal.**

The above requirements may be waived upon approval of the Town Board through appeal by the affected party. Such appeal shall be made to the Town Clerk, who shall forward the request to the Town Board, which shall receive reports from the Door County Sheriff's Department on such appeal. The Board shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Board shall forward its decision in writing to the Door County Sheriff's Department for their information and action. A written copy of the decision shall be provided to the affected party.

**Section 7 – Severability.**

The provision of this ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application to any person or circumstance is held invalid, the remainder of this ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

**Section 8 – Effective Date.**

This ordinance shall take effect upon passage and the day following its publication.

Submitted by:

Paul DeWitt, Chairman

Board Members:

Robert Braunel	Aye
Gary Schaeffer	Aye
Mark Stevenson	Aye
Glenn Dart	Aye

Certification:

I, Amy Sacotte, Clerk of the Town of Gardner, hereby certify that the above is a true and correct copy of an ordinance that was adopted on the 5<sup>th</sup> day of November, 2008, by the Board of Supervisors.

Amy Sacotte, clerk