

ORDINANCE No. 2026-08

AN ORDINANCE ESTABLISHING SEXUAL OFFENDER RESIDENCY, PROHIBITED
ACTIVITIES, AND LOITERING RESTRICTIONS
WITHIN THE MUNICIPALITY OF THE VILLAGE OF PALMYRA

WHEREAS, the Village Board of the Village of Palmyra, Jefferson County, Wisconsin, deems it a priority to act in the interest of public safety within our community, particularly in the interest of our children; and

WHEREAS, according to the U.S. Department of Justice, there are a record number of convicted sex offenders living in our communities¹; and

WHEREAS, all convicted child sex offenders have proven themselves to be dangerous²; and

WHEREAS, research in this area has established sex offenders are rearrested for sex crimes four times more frequently than non-sex offenders³; and

WHEREAS, the reduction of crime and criminal recidivism are inextricably linked to public safety within our community; and

WHEREAS, the risks posed by sex offenders against children, are nationally recognized in such landmark legislation as the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; 1996 Megan's Laws; and the 2006 Adam Walsh Child Protection and Safety Act; and these risks are also recognized by legislation in every State in the United States of America including Wisconsin; and

WHEREAS, the Village Board finds that the data concerning child sex offenders is horrific and demonstrates the need for action, including the following⁴:

- "sex crimes are unfortunately fairly common in the United States."
- "It is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood."

¹ Sex Offender Management Assessment and Planning Initiative, July 2015, *"This includes offenders returning to the community upon release from incarceration as well as offenders who are serving or who have been discharged from community-based sentences."*

² Kester, 2013 WI App 50, 11 30

³ Sex Offender Management Assessment and Planning Initiative, July 2015, Langan, P., Schmitt, E., & Durose, M. (2003). Recidivism of Sex Offenders Released from Prison in 1994.

⁴ Center for Sex Offender Management (CSOM) statistics. CSOM is a collaborative effort of the U.S. Department of Justice, Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, and these quoted statistics are from its "Fact Sheet: What You Need to Know about Sex Offenders".

- "Children are particularly vulnerable. Approximately 67% of all victims of reported sexual assaults are under the age of 18, and more than half of these victims are under the age of 12."
- "Most sexual offenses are committed by someone the victim knows ... or acquaintance."
- "No single factor or combination of factors can fully explain why someone offends sexually, though some factors may combine to increase people's tendency to offend. These factors are ... [physiological, sociocultural, developmental] and situational/circumstantial (e.g. having easy access to victims...)."
 - "About 12% to 24% of sex offenders will reoffend."

WHEREAS, the Village Board also finds these statistics of the U.S. Department of Justice to be shocking and a call to action⁵:

- "Approximately 1.8 million adolescents in the United States have been victims of sexual assault."
- "An estimated 60% of perpetrators of sexual abuse are known to the child but are not family members, e.g. family friends, babysitters, childcare providers, neighbors."

WHEREAS, in September of 2015 the State of Wisconsin Department of Corrections conducted an extensive study of sex offender recidivism between 1997 and 2010, and found that in total there were 631 instances (4.9% of all releases) of sexual re-offending, and the top two types of re-offense were second degree sexual assault of a child (103 offenses), first degree sexual assault of a child (100 offenses); and within the top 10 re-offenses also were sex with a child ages 16 or older (46 offenses) and repeated sexual assault of the same child (33 offenses); and the study concludes that of all the repeat offenses committed by sex offenders, "sex offenses that specifically reference children represent a greater proportion of the whole;"⁶

WHEREAS, data within the Village of Palmyra may not provide a large enough sample size for statistical analysis, however, there is no reason to believe the outcomes would be different in the Village than were demonstrated statewide by the Department of Corrections data;

⁵ U.S. Department of Justice, National Sex Offender Public Website "Facts and Statistics"

⁶ Joseph R. Tatar II, Ph.D. and Anthony Streveler, M.S.W., Sex Offender Recidivism After Release from Prison, Office of the Secretary, Research and Policy Unit. State of Wisconsin Department of Corrections (September 2015).

WHEREAS, the creation of Sex Offender Residency Restrictions and Safety Zones by municipal ordinance around locations where children regularly congregate is a reasonable step toward protecting children and deterring recidivism by reducing the opportunity for new offenses within our community; and

WHEREAS, the Village Board has reviewed many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions⁷, and has been fully advised in the matter; and

WHEREAS, the literature on the subject includes some studies that support the practice of imposing sex offender residency restrictions and others that are critical of the practice; and

WHEREAS, the Village Board finds it to be significant that some of the key studies that have concluded that sex offender residency restrictions have limited effectiveness have added significant qualifications to that conclusion; e.g. in "An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri," (Huebner, et al., 2013), the authors generally do not support sex offender residency restrictions, but nevertheless find that following adoption of sex offender residency restrictions "the rate of recidivism for technical violations significantly decreased for Missouri sex offenders... " (id. at 9) and "the number of sex offense convictions did decline..." in Missouri (id. at 10); and

WHEREAS, the Village Board recognizes the merits, mentioned in some studies, of individualized consideration of the risks and benefits of residency restrictions on an offender-by-offender basis, and the Village Board has carefully considered how it can best provide that individualized consideration, and hereby intends to create a Residence Review Board with authority to grant, condition, or deny exemptions from the 1,000-foot residency restriction so that the ordinance does not banish sex offenders from the Village; and

⁷ These include but are not limited to: Recidivism of sex offenders released from prison in 1994, U.S. Department of Justice, Office of Justice Programs, copyright November 2003; The final report of the Commission to Improve Community Safety and Sex Offender Accountability, of the State of Maine, dated January 2004; Sex Offender Recidivism Prediction, Correctional Service of Canada dated October 14, 2004; Recidivism of Sex Offenders, May 2001, Center for Sex Offender Management; Treating Sex Offenders, Wisconsin Lawyer Magazine, October 1994; The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review, Marcus Nieto and Professor David Jung, California Research Bureau, California State Library, August 2006; Sex Offenders: You Are Now Free to Move About the Country, and Analysis of Doe v. Miller's Effects on Sex Offender Residential Restrictions, UMKC Law Review, Spring 2005; There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws, Linden and Rockoff, National Bureau of Economic Research, May 2006; The Effect of Proximity to a Registered Sex Offender's Residence on Single-Family Housing Selling Price, Goliath Appraisal Journal, July 2003; Sex Offenders, Sexually Violent Predators, Punishment Residence Restrictions and Monitoring, California Proposition 83, Analysis by the Legislative Analyst; An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri, Huebner, et al., 2013.

WHEREAS, the Village Board recognizes that it cannot eliminate all risk of child sex offender re offense, and it must balance all of the competing public policies, but intends by these regulations to strike the legislative balance that is appropriate for the circumstances of the Village of Palmyra; and

WHEREAS, it is not the intent of this ordinance to banish sex offenders from residing within the Village of Palmyra, and careful attention has been given to ensure that there are ample locations for sex offenders to reside within the Village of Palmyra in compliance with the requirements of this ordinance; specifically, there are approximately 89 residential parcels outside of the exclusion zone where residency is permitted under this ordinance.

NOW, THEREFORE, the Village Board of the Municipality of the Village of Palmyra, Jefferson County, Wisconsin DO ORDAIN AS FOLLOWS:

**SEX OFFENDER RESIDENCY, PROHIBITED ACTIVITIES, AND LOITERING
RESTRICTIONS.**

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SECTION 1

An ordinance entitled "Sexual Offenders Residency and Loitering Restrictions," is hereby created to read as follows:

1. Findings and Intent.

(a) This Chapter is a regulatory measure aimed at protecting the health and safety of children from the risk that convicted sex offenders may re-offend in locations close to their residences. The Governing Body finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new sexual assault. The Governing Body further finds that, given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing

the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, and other places children frequent. The Governing Body finds and recognizes that, in addition to schools, there are other areas where children congregate or play.

(b) This Chapter is not intended to impose a criminal penalty or punishment of sexual offenders, but rather to serve the municipality's compelling interest to promote, protect, and improve the health, safety, and welfare of children in the municipality by creating areas around locations where children regularly congregate in concentrated numbers where sexual offenders and sexual predators are prohibited from loitering and/or establishing temporary or permanent residence and by regulating certain activities that may be used by sexual offenders to prey upon children.

(c) Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of re-offense, the Governing Body finds that there is a compelling need to protect children where they congregate or play in public places.

2. Definitions.

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

ADULT — For the purposes of this chapter, means a person who is 18 years of age or older.

CHILD — A person under the age of 18 for the purpose of this chapter.

CHILD SAFETY LOCATION — Site upon which any of the following are located without regard to whether such site is located within the geographic limits of the Municipality of the Village of Palmyra:

1. Facility for children;
2. Group home, as defined in Wis. stat. sec. 48.02(7);
3. Library, that is held open for use by the public;
4. Licensed day care center as defined in Wis. Stat. sec. 48.65;
5. School property, public or private primary, elementary, secondary, middle, junior high, or high school;
6. Recreational trail, playground or park, athletic fields;
7. Specialized school for children, including, without limitation, a gymnastics academy, dance academy, or music school;
8. Swimming pool, wading pool, or aquatic facility held open for use by the public, public beach; and
9. A public or private golf course or range.

10. Church or places of worship

CHILD SAFETY ZONE — Any place within the municipality that is physically located within 1,000 feet away from any Child Safety Location.

DESIGNATED OFFENDER — 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 for whom a bulletin to law enforcement agencies has been issued under Wis. Stats. § 301.46(2m).

CRIME AGAINST CHILDREN — Offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction where the victim is a child, respectively:

- § 940.225(1), First degree sexual assault;
- § 940.225(2), Second degree sexual assault;
- § 940.225(3), Third degree sexual assault;
- § 940.22(2), Sexual exploitation by therapist;
- § 940.30, False imprisonment - victim was minor and not the offender's child;
- § 940.31, Kidnapping - victim was minor and not the offender's child;
- § 944.01, Rape (prior statute);
- § 944.06, Incest;
- § 944.10, Sexual intercourse with a child (prior statute);
- § 944.11, Indecent behavior with a child (prior statute);
- § 944.12, Enticing child for immoral purposes (prior statute);
- § 948.02(1), First degree sexual assault of a child;
- § 948.02(2), Second degree sexual assault of a child;
- § 948.025, Engaging in repeated acts of sexual assault of the same child;
- § 948.05, Sexual exploitation of a child;
- § 948.055, Causing a child to view or listen to sexual activity;
- § 948.06, Incest with a child;
- § 948.07, Child enticement;
- § 948.075, Use of a computer to facilitate a child sex crime;
- § 948.08, Soliciting a child for prostitution;
- § 948.095, Sexual assault of a student by school instructional staff;
- § 948.11 (2)(a) or (am), Exposing child to harmful material-felony sections;
- § 948.12, Possession of child pornography;
- § 948.13, Convicted child sex offender working with children;

COMMUNITY EVENTS — Any publicly advertised or organized gatherings sponsored by the Village, a school, library, park program, youth organizations, youth religious organizations, or community youth groups that are intended primarily for attendance by minors or include organized activities for minors.

LOITERING — Whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

DOMICILE — An individual's fixed and permanent home where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return provided, however, that no individual may have more than one domicile at any time. Domicile does not include a residence for any special or temporary purpose.

PERMANENT RESIDENCE — A place where the person abides, lodges, or resides for 14 or more consecutive days.

TEMPORARY RESIDENCE — A place where the person abides, lodges, or resides for a period of 14 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 nonconsecutive days in any month and which is not the person's permanent residence.

3. 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 within 1,000 feet of any Child Safety Location.

B. *Prohibited loitering.*

- (1) It shall be unlawful for any designated offender to knowingly loiter within a Child Safety Zone when such loitering serves no lawful purpose and under circumstances that would cause a reasonable person to believe the individual is lingering, remaining, or prowling in the area without legitimate reason.
- (2) For purposes of this section, evidence of loitering may include prolonged presence, repeated returns to the same location, refusal to leave upon request by a law enforcement officer or person responsible for the property, attempts to engage in unsolicited contact with minors, or other conduct demonstrating a lack of legitimate purpose for remaining within the Child Safety Zone.
- (3) This section shall not apply when a designated offender is:
 - a. Traveling through a Child Safety Zone by vehicle, bicycle, or on foot without unnecessary delay;
 - b. Present for lawful employment, governmental business, court appearances, voting, attendance at public meetings, or the exercise of constitutionally protected rights;
 - c. Obtaining medical care, emergency services, legal services, or social services;

- d. Transporting a minor who is a member of the offender's immediate family to or from school, childcare, medical care, religious services, or extracurricular activities, provided the offender does not otherwise remain in the Child Safety Zone longer than reasonably necessary;
 - e. Attending religious services at a place of worship, provided the offender complies with all conditions of supervision and does not participate in children's programming or activities unless otherwise authorized by law; or
 - f. Present for another legitimate purpose approved as part of a court order, supervision condition, or exemption granted pursuant to this Chapter.
- (4) Mere presence within a Child Safety Zone, without additional conduct demonstrating loitering as defined herein, shall not constitute a violation of this section.
 - (5) Before issuing a citation for a first violation, a law enforcement officer should, when reasonably practicable and absent exigent circumstances, advise the designated offender that his or her conduct appears to violate this section and provide an opportunity to leave the Child Safety Zone.

C. Prohibited activity by designated offenders. Except as provided in § 3C(1), no designated offender shall participate in a Community Events in the Village of Palmyra involving one or more children by means of distributing candy, gifts, prizes, promotional items, or other items directly to minors at a youth-oriented events, or other similar activities that may, under the circumstances then present, tend to entice a child to have contact with a designated offender.

- (1) *Exception.* Community Events in which the designated offender is a parent or legal guardian of the child or children involved are exempt from the provisions of § 3C, provided that no child or children other than a child or children of the designated offender are present at the events.

D. Measurement of distance.

- (1) For the 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 Child Safety Location as defined within this Ordinance.
- (2) The Village Clerk shall prepare an official map showing prohibited locations as defined by this section. The Village Clerk shall maintain the map on file at the Village Hall and update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.

E. *Penalties.* Any person who violates this ordinance shall forfeit not less than \$500 nor more than \$1,000, together with the costs of prosecution, for each violation. Each day a violation continues constitutes a separate offense. Violation of this ordinance is a public nuisance, which the Village may abate and enjoin in addition to any forfeiture. Nothing in this ordinance may be enforced in a manner prohibited by Wis. Stat. § 980.135.

F. *Exceptions.* A designated offender residing within a prohibited area as described in this section does not commit a violation of this section if any of the following apply:

- (1) The person established the permanent residence or temporary residence, was convicted of the predicate offense giving rise to registration requirements, and reported and registered the residence pursuant to Wis. Stat. § 301.45 prior to the effective date of this Chapter.
- (2) The Child Safety Location within 1,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45.
- (3) This section shall not apply to any person residing at a location pursuant to a placement, supervised release order, or other residential arrangement authorized or required under Chapter 980, Wisconsin Statutes, or any successor statute governing the care, treatment, supervision, or placement of sexually violent persons.

4. Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

- A. It is unlawful for a property owner to allow a designated offender or rent any place, structure, or part thereof, trailer or other conveyance, 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 chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in § 3A, and not subject to an exception set forth in § 3F above.
- B. A property owner's failure to comply with this section shall constitute a violation of this chapter and shall subject the property owner to the penalties set forth in § 3E.

5. Exemption Appeal.

A designated offender may seek an exemption from §3A through the following:

- (1) *Residence Review Board.* The Residence Board shall consist of three citizens residing in the Village. Members shall be selected by the Village

Board. Members shall serve for a term of five years and shall serve no more than two consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one year, a second serving three years and the third serving five years. The appointment terms shall commence on May 1 of the year appointed.

- (2) *Appeals Body.* A designated offender may seek an exemption, waiver or modification from this section by appealing to the Residence Review Board. The above requirements may be waived or modified upon approval of the Village of Palmyra Residence Review Board on through appeal by the affected party. Such appeal request shall be made to the Village Clerk-Treasurer, who shall forward the request to the Residence Review Board.
- (3) *Hearing Notice.* The Residence Review Board shall hold a public hearing on the appeal. Notice in the form of an agenda shall be published/posted as required by state law and be provided to the members of the Residence Review Board, the applicant, and the property owner if not the applicant. Such agenda notice shall be provided a minimum of seven days prior to the hearing date.
- (4) *Hearing; considerations.* The Residence Review Board shall hold a hearing on each appeal to conduct a risk assessment in each case, during which the Residence Review Board may review any pertinent information and may accept oral or written statements from any person. The Residence Review Board shall request and receive reports from law enforcement authorities serving the Village on such appeal. The Residence Review Board shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The Residence Review Board shall also consider any written, emailed or oral statements from any person at the hearing or received in advance of the hearing in the case of written or emailed comments. The Residence Review Board shall consider the specific circumstances and facts of each applicant and determine whether the applicant poses a threat to public safety if he or she resides at that proposed location. The Residence Review Board shall consider factors which may include, but are not limited to, the following:
 - a) The nature of the predicate offense causing the appellant to be a designated offender.
 - b) Police reports related to the predicate offense if available.
 - c) Proximity of the requested residence to the victim.
 - d) The age of the offense, offender, and victim.
 - e) Recommendation of the probation or parole officer if one exists.
 - f) Recommendation of the Village of Palmyra Police Department.
 - g) Recommendation of any treatment practitioner.

- h) Proposals for safety measures and assurances by the designated offender.
 - i) Conditions to be placed on any exception or variance from the requirements of this chapter.
 - j) Support systems in place by the designated offender.
 - k) Who the designated offender will be or is living with at the prohibited location.
 - l) Statements of the surrounding community or victim.
 - m) Treatment, sobriety, or rehabilitative measures taken by the designated offender.
 - n) The designated offender's current employment or social activities.
 - o) The designated offender's criminal history.
 - p) Whether the designated offender meets any of the exceptions listed in § 3 above.
- (5) *Determination.* The Residence Review Board shall issue a decision by a majority vote. The Residence Review Board may decide to deny an exemption, issue an exemption, or issue a conditional exemption. A written copy of the decision shall be provided to the designated offender in person or by first-class mail at the designated offender's last known address. A designated offender must consent to the terms of the conditional exemption for the conditional exemption to be valid and must demonstrate acceptance of the terms of the conditional exemption by signing and dating a copy of the Residence Review Board's decision and conditions. The designated offender must provide a copy of the signed conditional exemption to the Village Clerk's office and the Village Palmyra Police Department. The designated offender will have 10 days from the date the written conditional exemption is issued to accept and return a signed copy to the appropriate locations, or the conditional exemption will be deemed as void and the appeal denied by the Residence Review Board. A designated offender need not sign an exemption that has been denied by the Residence Review Board or an exemption approved without any necessary conditions by the Residence Review Board.
- (6) *Conditional Exemption.* A conditional exemption may include, but is not limited to, the following terms:
- a) Curfew restrictions.
 - b) Cohabitant restrictions or requirements.
 - c) Sobriety restrictions.
 - d) Conduct restrictions.
 - e) Residency restrictions.
- (7) *Exemption or Conditional Application.* Any exemption or conditional exemption granted by the Residence Review Board shall apply solely to the designated offender who submitted the application and only to the specific residence identified in the application and approved by the Residence

Review Board. Such exemption or conditional exemption shall be personal to the applicant and shall not be transferable to any other person, residence, property, or location.

- (8) *Exemption or Conditional Expiration.* An exemption or conditional exemption shall automatically expire upon the designated offender's relocation from the approved residence, change of domicile, or establishment of a new permanent or temporary residence, whether within or outside the Village.
- (9) *Exemption or Conditional Exemption Revoked.* An exemption or conditional exemption issued by the Residence Review Board may be revoked by the Residence Review Board if the designated offender is found to have violated the conditions or there is probable cause to believe the designated offender has committed (an) additional act(s), which had occurred either before or after the exemption or conditional exemption was issued, that would cause a person to be classified as a designated offender. The Residence Review Board shall provide written notice to the designated offender that the exemption or conditional exemption has been revoked. This notice shall be deemed properly delivered if sent by either first class mail to the designated offender's last known address or if delivered in person to the designated offender's last known address. If the designated offender cannot be located, the notice shall be deemed to be properly delivered if a copy is left at the designated offender's address which had been exempted in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there. If notice cannot be so served, it may be served by publishing a Class I notice. The revocation of an exemption may be appealed to the Residence Review Board pursuant to the above procedure.
- (10) For the purposes of this chapter, pursuant to § **68.16**, Wis. Stats., the Village of Palmyra is specifically electing not to be governed by Chapter **68**, Wis. Stats.
- (11) *Denial of Exemption or Conditional Exemption Request.* If the Residence Review Board denies a request for an exemption or conditional exemption, or upholds the revocation of an exemption or conditional exemption, the designated offender may appeal the decision to the Jefferson County Circuit Court within thirty (30) days of the date of the Residence Review Board's written decision.

SECTION 2

If any section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of such ordinance.

SECTION 3

This ordinance shall be promptly published, and shall take effect upon passage and publication pursuant to Wis. Stat. § 61.50(1). Adopted this _____ day of _____, 2026.

VILLAGE OF PALMYRA

BY: _____
Timothy Gorseigner, Village President

ATTEST:

BY: _____
Laurie Mueller, Village Clerk