

ORDINANCE NO. 01192016

**AN ORDINANCE AMENDING SECTION 5.12 OF
THE MUNICIPAL CODE OF THE TOWN OF SHEBOYGAN
SHEBOYGAN COUNTY, WISCONSIN, TO ESTABLISH
SEXUAL OFFENDER RESIDENCY RESTRICTIONS**

WHEREAS, the Town Board having reviewed its existing ordinance regulating and restricting residency for sexual offenders to protect children, and upon the prior actions and experience of the Town of Sheboygan in protecting the community from sexually violent persons, finds this ordinance amending Section 5.12 of the Town Municipal Code will promote and protect the health, safety and welfare of the community.

Section 1. Amending Code. Section 5.12 entitled "Sexual Offender Residency Restrictions" of the Town of Sheboygan Municipal Code is hereby amended to read in its entirety as follows:

"5.12 Sexual Offender Residency Restrictions –

- (1) Finding and Issue –
 - (a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
 - (b) It is the intent of this section 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.
- (2) Definitions –

The following words, terms and phrases, when used in this section, 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 the purpose of this section.
 - (b) Designated Offender means: Any person who is required to register under Wis. Stat. § 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. § 301.45 for whom a bulletin to law enforcement agencies has been issued under Wis. Stat. § 301.46(2m).
 - (c) Permanent Residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.
 - (d) Temporary Residence means a place where the person abides, lodges, or resides for a period of fourteen (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 non-

consecutive 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 2,000 feet of any school, licensed day care center, park, recreational trail, playground or place of worship.

(b) Prohibited Activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children. 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. Participation is to be defined as actively taking part in the event.

(c) 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 school, licensed day care center, park, recreational trail, playground or place of worship.

2. The Town Clerk shall prepare an official map showing prohibited locations as defined by this section. The Town Clerk shall maintain the map on file at the Town 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.

(d) Penalties. A person who violates any provision of this section shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this section constitutes a separate violation. The Town of Sheboygan may also seek equitable relief.

(e) Exceptions. A designated offender residing within a prohibited area as described in Paragraph (3) 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. Stat. § 301.45 before the effective date of this ordinance.

2. The school, licensed day care center, park, recreational trail or playground within 2,000 feet of the person's permanent residence was opened after the person established and the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.

(4) 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, 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 article, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Paragraph 3(a), and not subject to an exception set forth in Paragraph 3(e) above.

- (b) A property owner's failure to comply with this section shall constitute a violation of this ordinance and shall subject the property owner to the penalties set forth in Paragraph 3(d).
- (5) Original Residency Restriction –
In addition to the other residency restrictions set forth herein, no designated offender may establish a residence in the Town of Sheboygan unless he or she was a resident of the Town of Sheboygan at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a sex offender.
- (6) Notice –
In the event the Town receives a sex offender bulletin from a law enforcement agency issued pursuant to Wis. Stat. § 301.46(2m) that includes the proposed or current address information of a designated offender, then the Town Clerk shall mail written notice of this sex offender residence to the record owners of property located within two hundred feet (200') of the designated offender's address as soon as practicable after receipt of the bulletin.
- (7) Appeal –
The above 2,000 foot requirement may be waived upon approval of the Town Board through appeal by the affected party. Such appeal shall be made in writing to the Town Clerk's Office, who shall forward the request to the Town Board, which shall review reports from the Sheriff's Department, if any, on such appeal. The Town Board shall convene and consider the public interest, as well as the affected party's presentation and concerns. After deliberation, the Town Board shall forward its decision in writing via the minutes or otherwise to the Sheboygan County Sheriff' for his information and action. A written copy of the decision shall be provided to the affected party."

Section 2. Severability. The provisions 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 are held invalid, the remainder of this Ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

Section 3. Effective Date. This Ordinance shall take effect the day after its publication or posting.

Enacted this 19th day of January, 2016.

TOWN OF SHEBOYGAN

By **DANIEL W. HEIN**, Chairperson

CERTIFICATION

I hereby certify that the foregoing Ordinance was duly enacted by the Town Board of the Town of Sheboygan on the 19th day of January, 2016.

CATHY CONRAD, Town Clerk