

**LEGISTAR #37861 - BODY**

DRAFTER'S ANALYSIS: This ordinance prevents a child sex offender, who is required to register under state statute as a sex offender, from residing within 2000 feet of a school or community center. This ordinance authorizes the City Attorney to commence a nuisance action against an individual who violates this ordinance and does not move within 30 days after receiving notice of the violation. This ordinance also establishes a bail deposit for violations.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 26.14 entitled "Residency Restrictions for Child Sex Offenders" of the Madison General Ordinances is created to read as follows:

**"26.14 RESIDENCY RESTRICTIONS FOR CHILD SEX OFFENDERS.**

(1) Definitions.

"Charter school" has the meaning as defined by Wis. Stat. § 115.001(1).

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

"Child sex offender" shall mean any individual who is required to register under Wis. Stat. § 301.45, for any offense against a child.

"Community Center" shall mean a building, including the attached structures and grounds, that is established and primarily used as a gathering place for a variety of social, education enrichment, and community service activities for children and is open to the general public on a nondiscriminatory basis.

"Residence" means the voluntary concurrence of physical presence with the intent to remain in a place of fixed habitation. Physical presence is prima facie evidence of intent to remain.

"Private school" has the meaning as defined by Wis. Stat. § 115.001(3r).

"Public school" has the meaning as defined by Wis. Stat. § 115.01(1).

"School" shall mean any charter, private or public school.

(2) Legislative Findings and Intent.

(a) The Common Council finds that the increased number of child abductions from public places and the then subsequent sexual assaults of these children by known child sex offenders throughout the nation has become a public safety threat.

(b) Individuals convicted of serious sex offenses against children pose a clear threat to children residing or visiting in the community.

(c) The individuals that prey on children are serious threat to children. These individuals are more likely to reoffend than others. This high recidivism rate results in an increased risk to children in our City.

(d) The City has a strong interest in insuring that citizens, including children, feel safe in public places.

(e) Reducing the opportunity and temptation is an important factor to minimize the risk of reoffending. Therefore, there is a need to protect children where they congregate or play in public places. This ordinance covers locations that are primarily designated for use by, or are primarily used by children, namely: schools and community centers.

(f) For these reasons, the Council finds that a threat to public safety exists that affects the life, health and public welfare of children and that for the immediate preservation of the public peace, health and safety of these children an urgency exists to require the adoption of this ordinance.

(3) It shall be unlawful for a child sex offender to establish a residence within two thousand (2000) feet of the real property comprising any of the following:

(a) A school; or

(b) A community center.

The distance shall be measured from the closest boundary line of the child sex offender's residence to the closest real property boundary line of the above-mentioned property. A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the Office of the City Clerk for public inspection.

- (4) Exceptions. A child sex offender who establishes a residence within a prohibited area as specified in sub. (3) does not commit a violation of this section if any of the following apply:
  - (a) The person established the residence and reported and registered the residence as required under Wis. Stat. § 301.45, before the effective date of this ordinance;
  - (b) The prohibited area as specified in sub. (3) was established or opened after the person established the residence and reported and registered the residence as required under Wis. Stat. § 301.45.
- (5) Violations. For the reasons stated in the Legislative Findings and Intent, the Common Council finds that violations of the residence restrictions of this ordinance which continue for more than thirty (30) days after notice of the violation constitute an activity or use of property that interferes substantially with the comfort, enjoyment of life, health, safety of another or others and constitute a public nuisance per se. If an individual establishes a residence in violation of this Section, the City Attorney, upon referral from the Chief of Police, shall bring an action in the name of the City to permanently enjoin such residence as a public nuisance. If an individual violates this Section, in addition to the aforesaid injunctive relief, such person shall be subject to a forfeiture of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5000). Each day of a violation such constitute a separate offense.”

2. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Child sex offender residency restriction violation.	26.14(3)	\$500, 1st \$1000, 2nd \$3000, 3rd & sub.”

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.