TITLE XI

Chapter 71

SEX OFFENDER RESIDENCY ORDINANCE

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71.01 TITLE.

This Ordinance shall be entitled the "Sex Offender Residency Ordinance."

71.02 RECITALS.

The Wisconsin Statutes, including Chapters 940, 944, and 948 thereof, govern the punishment of individuals who commit sex crimes. The Wisconsin Statutes also govern the release into the community of such individuals. The city is responsible to maintain the public health, safety, and welfare and finds that sex offenders have high recidivism rates that threaten the public health, safety, and welfare, especially that of children.

The city counsel has reviewed findings in several studies related to recidivism and risk related to individuals who have committed sex crimes. Those studies include the following:

• Center for Sex Offender Management Fact Sheet: What You Need to Know About Sex Offenders. This fact sheet provided information about sex offender recidivism, including that it is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood; that one in six adult women and one in 33 adult men experience an attempted or completed sexual assault; that approximately 67 percent of all victims of reported sexual assaults

are under age 18 and more than half are under age 12; and that about 12 to 24 percent of sex offenders will re-offend.

• U.S. Department of Justice, Bureau of Justice Statistics—Recidivism of Sex Offenders Released from Prison in 1994. This study found that compared to non-sex offenders released form state prisons, released sex offenders were four times more likely to be re-arrested for a sex crime.

• Correctional Service Canada—Forum on Corrections Research. This study of 178 sex offenders released from a maximum-security psychiatric facility found that after an average follow-up of 59 months, 27.5 percent of sex offenders in the study sexually recidivated and 40.4 percent of the sex offenders were arrested, convicted, or returned to a psychiatric facility for a violent offence.

• California Research Bureau—The Impact of Residency Restrictions on Sex Offenders and Correctional Management: A Literature Review. This study found that at the time it was written 22 states had enacted some form of residency restriction that prohibits sex offenders from living within a certain distance of schools, daycare centers, or places where children congregate. The least restrictive among them was 500 feet, but distances from 1,000 to 2,500 feet were common.

• National Bureau of Economic Research—There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws. This study found that the majority of both violent and non-violent offenses take place less than one mile from victims' homes. It also found that prices of homes near sex offenders declined considerably following an offender's arrival in the neighborhood.

• An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri. This study found that while in Michigan, residency restrictions led to a slight increase in recidivism, in Missouri, the reconviction rate declined.

Based on the above studies and other information presented to the city counsel, the counsel determines that the restrictions set forth in this section serve the purpose of protecting the public health, safety, and welfare from the risk of recidivism of sex offenders. The counsel further determines that the intent and effect of this article is not to banish sex offenders from residing within the city, and careful attention has been given to ensure that there are ample locations for sex offenders to reside within the city in compliance with the requirements of this article.

The counsel further determines that the opportunity for individualized consideration of the risks and benefits of residency restrictions on a case-by-case basis is the best approach to achieve the purposes of this article and, to that end, this article establishes an "exemption" process by which a sex offender may seek an exemption from its residency restrictions by petitioning to the City's Sex Offender Residence Counsel.

71.03 PURPOSE.

The purpose of this article is to protect the public health, safety, and welfare in the city by regulating the residency of sex offenders.

71.04 DEFINITIONS.

(a) Sex offender. A person who has been convicted of, has been found delinquent of, or has been found not guilty of by reason of disease or mental defect of a sexually violent offense or a crime against children.

(b) Sexually violent offense. Shall have the meaning set forth in Wis. Stat. § 980.01(6).

(c) Crime against children. Shall mean any of the following offenses set forth in the Wisconsin Statutes, as amended, or in the laws of this or any other state or the federal government having like elements necessary for conviction, respectively:

Wis. Stat. § 940.225(1) First Degree Sexual Assault.

Wis. Stat. § 940.225(2) Second Degree Sexual Assault.

Wis. Stat. § 940.225(3) Third Degree Sexual Assault.

Wis. Stat. § 940.22(2) Sexual Exploitation by Therapist.

Wis. Stat. § 940.30 False Imprisonment — Victim was Minor and Not Offender's Child.

Wis. Stat. § 940.31 Kidnapping — Victim was Minor and Not Offender's Child.

Wis. Stat. § 944.02 Rape (prior statute, now Wis. Stat. § 940.225).

Wis. Stat. § 944.06 Incest.

Wis. Stat. § 944.10 Sexual Intercourse with a Child (prior statute, now Wis. Stat. § 948.02).

Wis. Stat. § 944.11 Indecent Behavior with a Child (prior statute, now Wis. Stat. § 948.02).

Wis. Stat. § 944.12 Enticing Child for Immoral Purposes (prior statute, now Wis. Stat. § 948.07).

Wis. Stat. § 948.02(1) First Degree Sexual Assault of a Child.

Wis. Stat. § 948.02(2) Second Degree Sexual Assault of a Child.

Wis. Stat. § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child.

Wis. Stat. § 948.05 Sexual Exploitation of a Child.

Wis. Stat. § 948.055 Causing a Child to View or Listen to Sexual Activity.

Wis. Stat. § 948.06 Incest with a Child.

Wis. Stat. § 948.07 Child Enticement.

Wis. Stat. § 948.075 Use of a Computer to Facilitate a Child Sex Crime.

Wis. Stat. § 948.08 Soliciting a Child for Prostitution.

Wis. Stat. § 948.095 Sexual Assault of a Student by School Instruction Staff.

Wis. Stat. § 948.11(2)(a) or (am) Exposing a Child to Harmful Material.

Wis. Stat. § 948.12 Possession of Child Pornography.

Wis. Stat. § 948.13 Convicted Child Sex Offender Working with Children.

Wis. Stat. § 948.30 Abduction of Another's Child.

Wis. Stat. § 971.17 Not Guilty by Reason of Mental Disease or an Included Offense.

Wis. Stat. § 975.06 Sex Crime Law Enforcement.

(d) Residence. A place where a person sleeps, abides, lodges, or resides on a permanent or regular basis. For purposes of this definition, a permanent basis means 14 or more consecutive days and a regular basis means 14 or more aggregate days during any calendar year and four or more days in any month. A person may have more than one residence.

(e) City. Means the City of Blair, located in Trempealeau County, Wisconsin.

71.05 RESIDENCY RESTRICTIONS.

(a) Except as otherwise provided in this Ordinance, a Sex Offender may not reside within 1,500 feet of any real property upon which there exists any of the following uses:

(1) A school for children.

(2) A public park, park facility, or pathway.

(3) A daycare licensed by the State of Wisconsin.

(4) A public library.

(5) A public playground.

(6) A public athletic field used by children.

(7) A residential care center for children.

(8) A public swimming pool.

(9) A public community center

(10) Designated School Bus Stops (pick-up/drop-off)

(b) For purposes of this section, distance is to be measured in a straight line from the closest boundary line of the real property upon which the sex offender's residence is located to the closest boundary line of the real property of the applicable use.

71.06 RESIDENCY RESTRICTION EXCEPTIONS.

A sex offender residing within an area otherwise prohibited by section 71.05 does not commit an offense if any of the following apply:

(1)The person is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.

(2)The person had established a residence, as defined in section 71.04(d) above, at the location prior to the effective date of this article.

(3)The use enumerated in section 71.05(a) was established after the sex offender established a residence at the location and registered that residence as required by law.

(4)The sex offender is a minor or ward under guardianship.

71.07 SAFETY ZONES.

No sex offender may enter or be present on any real property upon which there exists any facility used for or which supports the use of:

(1) A school for children.

(2) A public park, park facility, or pathway.

(3) A daycare licensed by the State of Wisconsin.

(4) A public library.

(5) A public playground.

(6) A public athletic field used by children.

(7) A residential care center for children.

(8) A public swimming pool.

(9) A public community center.

71.08 SAFETY ZONE EXCEPTIONS.

A Sex Offender present in an area otherwise prohibited by section 71.07 does not commit an offense if any of the following apply:

(1)The property supporting a use enumerated in section 71.07 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:

a. Entrance and presence on the property may occur only during hours of worship or other religious program or service.

b. The person may not participate in any religious education programs that include individuals under the age of 18.

(2) The property supporting a use enumerated in section 71.07 also supports a use lawfully attended by the sex offender's natural or adopted child or children, which child's use reasonably requires the attendance of the sex offender, provided that entrance and presence on the property occurs only during hours of activity related to the use by the child or children.

(3) The property supporting a use enumerated in section 71.07 also supports a polling location in a local, state, or federal election, subject to the following conditions:

a. The sex offender is eligible to vote.

b. The polling location is the designated polling location for the sex offender.

c. The sex offender casts his or her ballot with whatever usual and customary assistance is available and vacates the property immediately after voting.

(4) The property supporting a use enumerated in section 71.07 also supports a school lawfully attended by the sex offender as a student, provided that the sex offender may only remain on the property at such times that are reasonably required for his or her educational purposes.

(5) The property supporting a use enumerated in section 71.07 also supports a police station, City Hall, or other governmental building, provided that the sex offender vacates the property immediately after completing the activity that required his or her presence at the property.

71.09 ORIGINAL RESIDENCY RESTRICTION.

In addition to the other residency restrictions set forth herein and subject to the limitations in section 71.06, no sex offender may establish a residence in the city unless he or she was a resident of the city at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a sex offender. This limitation shall not apply to the establishment of a residence at a dwelling that is owned by a member of the sex offender's family at the time the sex offender establishes residence therein. For purposes of this section, a member of a sex offender's family means the sex offender's mother, father, brother, sister, child, or grandparent.

71.10 SALE OR RENTAL OF PROPERTY FOR USE BY SEX OFFENDERS.

No person may sell or rent any place, structure, or part thereof with knowledge that it will be used as a residence by any sex offender that is prohibited from establishing residence therein by this article.

71.11 ENFORCEMENT.

A person violating this article shall be subject to forfeitures in an amount of not less than $200.00 nor more than $1,000.00 for each violation plus the costs of prosecution (including reasonable attorneys' fees). For purposes of calculating forfeitures, each day that a violation exists shall constitute a separate offense. Violations of this article are also deemed public nuisances, and the city may bring an action in circuit court to enjoin or abate any violation.

71.12 PETITION FOR EXEMPTION.

(a) A sex offender may seek an exemption from this article by petitioning to the Blair Sex Offender Appeals Board ("Appeals Board").

(b) The Appeals Board shall consist of three (3) citizens residing in the city, which may include City Council members. Board members shall be appointed by the Mayor. Board members shall

serve for a term of five (5) years and shall serve no more than two consecutive terms. The terms for the initial members of the Appeals Board shall be staggered with one Board Member serving one year, a second Board Member serving three years, and a third Board Member serving five years.

(c) The Appeals Board shall approve an official petition form. The sex offender seeking an exemption must complete the petition and submit it to the city clerk, who shall forward it to the Appeals Board. The Appeals Board shall hold a hearing on each petition, during which the Appeals Board may review any pertinent information and accept oral or written statements from any person. The Appeals Board shall base its decision on factors related to the city's interest in promoting, protecting, and improving the health, safety, and welfare of the community. Applicable factors for the Appeals Board to consider include, but are not limited to:

(1) Nature of the offense that resulted in designated offender status.

(2) Date of offense.

(3) Age at time of the offense.

(4) Recommendation of probation or parole officer.

(5) Investigative report of the police department.

(6) Recommendation of any treating practitioner.

(7) Counseling, treatment, and rehabilitation status of the sex offender.

(8) Remorse of sex offender.

(9) Duration of time since sex offender's incarceration.

(10)Support network of sex offender.

(11) Relationship of offender and victim(s).

(12) Presence or use of force in offense(s).

(13) Adherence to terms of probation or parole.

(14) Proposals for safety assurances of sex offender.

(15) Conditions to be placed on the exemption.

(d) The Appeals Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address, time, or subject to other reasonable conditions. The Appeals Board decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the sex offender and the police department.