

# Memo

To: Village Board

Fr: Trevor Fuller, Director of Planning and Community Development

Re: ACTION RE: ORDINANCE 2024-03, AMENDMENT OF CHAPTER 367, SEX OFFENDERS, OF THE VILLAGE OF ALLOUEZ ORDINANCES

Date: 12 April 2024

Village Counsel was asked to review Chapter 367 of the Village Municipal Code, following some questions received by staff. Upon review of the ordinance, Counsel identified areas that were no longer consistent with Wisconsin State Statutes. Staff has provided a redlined version of the ordinance for Village Board review. A finalized map is still being developed.

Staff recommendation is to discuss the changes, but to withhold action until a finalized map can be developed. Staff will be present at the meeting to discuss the process and the proposed changes further.

**Village Board is asked not to take action at this time.**

## ORDINANCE NO. 2024-03

### AN ORDINANCE AMENDING CHAPTER 367, SEX OFFENDERS OF THE VILLAGE OF ALLOUEZ MUNICIPAL CODE

THE VILLAGE BOARD OF THE VILLAGE OF ALLOUEZ, BROWN COUNTY, WISCONSIN, DOES ORDAIN THAT CHAPTER 367 BE AMENDED TO READ AS FOLLOWS:

#### SECTION 1.

### Chapter 367. Sex Offenders

[HISTORY: Adopted by the Village Board of the Village of Allouez as indicated in article histories. Amendments noted where applicable.]

#### Article I. Loitering

[Adopted as § 31.39 of the Village Code]

#### § 367-1. Findings and intent.

A.

This article is a regulatory measure aimed at protecting the health and safety of children and other vulnerable people in the Village of Allouez. Given the high rate of recidivism for sexual offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places. Therefore, the Village finds and declares that sexual offenders are a serious threat to the public safety of children if regulatory measures are not in place that prohibit their loitering in specified areas designated as places children commonly congregate. The Village of Allouez finds and declares that in addition to schools and day-care centers, children congregate or play at child-oriented facilities, such as parks and playgrounds.

B.

It is not the intent of this article to impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the children of the Village by prohibiting convicted sexual offenders from loitering in specified areas around locations where children regularly congregate in concentrated numbers. It is the further intent of this article to recognize that convicted sexual offenders must reenter the community, and the Village of Allouez hereby accepts that it has a responsibility to convicted sexual offenders and the surrounding area municipalities to ensure that, in addition to promoting regulatory measures aimed at protecting children, its regulatory measures are not aimed at prohibiting convicted sexual offenders from being part of this society.

#### § 367-2. Definitions.

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

**CHILD**

As defined by Wis. Stat. § 948.01(1), any person who has not attained the age of 18 years, except that for purposes of enforcing this ordinance against a person who has been convicted of a sexual offense, a “child” does not include a person who has attained the age of 17 years.

#### **DESIGNATED OFFENDER**

Any person required to register for a sexual offense regardless of whether they are on any form of Department of Corrections (DOC) supervision.

#### **LOITER-FREE ZONE MAP**

An official map, maintained by the Village, showing loiter-free zones designated in purple (the "Loiter-Free Zone Map"). The Village shall update the Loiter-Free Zone Map at least annually to reflect any changes in the location of loiter-free zones. Loiter-free zone maps will be available at the Village's office and on the Village's official website.

#### **LOITER-FREE ZONES**

The following areas including a surrounding fifty-foot radius where children congregate are designated by the Village to be loiter-free zones, including but not limited to:

A.

Schools;

B.

A public park, parkway, parkland, or park facility;

C.

A public playground;

D.

A public recreational trail;

E.

Licensed day-care centers; or

F.

Any other place designated by the Village as a place where children are known to congregate.

#### **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, and shall also include the colloquial expression “hanging around.”

### **§ 367-3. Prohibited location and acts.**

A.

It is unlawful for a designated offender to loiter within a loiter-free zone.

B.

Holiday prohibition. It is unlawful for any designated offender to participate in a holiday event involving children under 16 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the designated offender is the parent or guardian of the children involved, and no nonfamilial children are present, are exempt from this subsection.

### **§ 367-4. Violations and penalties.**

A person who violates this article shall be punished by a forfeiture not exceeding \$2,000, together with the actual costs of prosecution, including attorney fees, if necessary.

## **Article II. Residency Restrictions**

[Adopted as § 31.42 of the Village Code]

## § 367-5. Findings and intent.

Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who have committed sexual crimes against vulnerable people including children present a threat to public safety. The intent of this ordinance is not to impose a criminal penalty against sexual offenders, but to promote and protect the health, safety, and welfare of citizens of the village by creating areas around locations where vulnerable populations, primarily children, regularly congregate wherein certain sexual offenders may not reside.

## § 367-6. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

### **CHILD**

As defined by Wis. Stat. § 948.01(1), any person who has not attained the age of 18 years, except that for purposes of enforcing this ordinance against a person who has been convicted of a sexual offense, a “child” does not include a person who has attained the age of 17 years.

### **DESIGNATED OFFENDER**

Any person required to register for a sexual offense regardless of whether they are on any form of Department of Corrections (DOC) supervision.

### **PERMANENT RESIDENCE**

Any premises 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 4 or more days within a 30-day period, or for a period of 14 or more days during any calendar year and which is not the person's permanent address.

## § 367-7. Residency restriction; child safety zones.

### A.

Restriction. In absence of a court order specifically exempting a designated offender from the residency restriction in this section, a designated offender shall not establish a permanent residence or temporary residence within 1,500 feet of any school, licensed day-care center, park, recreational trail, playground, parkway or any other place designated by the Village as a place where children are known to congregate.

### B.

Measurement of distance.

#### (1)

The distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of a school, licensed day-care center, park, recreational trail, playground or any other place designated by the Village as a place where children are known to congregate.

#### (2)

The Village Clerk-Treasurer shall maintain an official map showing prohibited locations. The Village Clerk-Treasurer shall update the map at least annually to reflect any changes in the prohibited locations. These prohibited locations shall be designated on the map as child safety zones.

#### [1]

*Editor's Note: See also Ch. 475, Zoning, § 475-703C, Density restrictions for designated sex offenders.*

## § 367-8. Exceptions.

A designated offender residing within a prohibited area as specified in § 367-7 does not commit a violation of this article if any of the following applies:

A.

The person established a permanent residence or temporary residence and reported and registered the residence as provided in § 301.45, Wis. Stats., before the effective date of this article.

B.

The person was under 17 years of age and is not required to register under § 301.45 or 301.46, Wis. Stats.

C.

The school, licensed day-care center, park, recreational trail, playground, parkway or any other place designated by the Village as a place where children are known to congregate within 1,500 feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and reported and registered the residence as provided in § 301.45, Wis. Stats.

D.

The residence is also the primary residence of the person's spouse, parents, grandparents, siblings or children, provided that the spouse, parents, grandparents, siblings or children established the residence at least two years before the designated offender established residence at the location.

## § 367-9. Violations and penalties.

Any person, firm or entity who violates any provision of this chapter shall, upon conviction thereof, be subject to a forfeiture of at least X Dollars (\$00.00) and not more than X Dollars (\$00.00), together with the costs of prosecution, and in default of payment thereof, shall be committed to jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense. Neither the issuance of a citation nor the imposition of a forfeiture hereunder shall preclude the Village from seeking or obtaining any and all legal and equitable remedies available by law or this chapter.<sup>[1]</sup>

*Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

**SECTION 2.** All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

**SECTION 3.** This ordinance shall take effect upon its adoption and publication.

Approved and adopted this 16th day of April, 2024.

ATTEST:

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James F. Rafter, Village President

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Carrie C. Zittlow, Village Clerk-Treasurer