

Chapter 9-9

Sexual Offender Residency Restrictions

[**HISTORY: Adopted by the City Council of the City of Two Rivers (Title 9, Ch. 9, of the 1981 Code). Amendments noted where applicable.**]

§ 9-9-1 Findings and purpose.

- A. The Wisconsin Statutes provide for the punishment, treatment and supervision of persons convicted or otherwise responsible for sex crimes, including their release into the community. [**Amended 8-16-2021**]
- B. Chapter 980, Wis. Stats., provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender due to their likelihood to reoffend, and specifically, § 980.08, Wis. Stats., provides for the supervised release of such persons into the community. [**Amended 8-16-2021**]
- C. The City of Two Rivers places a high priority on maintaining public safety through highly skilled and trained law enforcement and laws that deter and punish criminal behavior.
- D. The City finds that sex offenders, who prey upon others, particularly children, are a serious threat to public safety and it is necessary for the City to enact reasonable measures to minimize the risk of the public in the City falling prey to sexual offenders. [**Amended 8-16-2021**]
- E. Further, this chapter is a non-punitive, regulatory measure aimed at protecting the health and safety of those in the City from the risk that convicted sex offenders may reoffend. It is the intent of this chapter not to impose a criminal penalty but rather to serve the City's compelling interest in promoting, protecting and improving the health, safety and welfare of the citizens and visitors of the City. [**Amended 8-16-2021**]

§ 9-9-2 Definitions.

As used in this chapter, and unless the context requires otherwise:

CRIME AGAINST CHILDREN

Any of the following 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 under the age of 18, respectively:

Wisconsin Statute	Crime
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)

Wisconsin Statute	Crime
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 child by a school staff person or a person who works or volunteers with children
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
948.30	Abduction of another's child
971.17	Commitment of persons found not guilty by reason of mental disease or mental defect
975.06	Sex crimes law commitment

FACILITY FOR CHILDREN

A public or private primary or secondary school; a church, synagogue, or house of worship as zoned by the City; a group home, as defined in § 48.02(7), Wis. Stats.; a residential care center for children or youth, as defined in § 48.02(15d), Wis. Stats.; a shelter care facility, as defined in § 48.02(17), Wis. Stats.; a day-care center licensed under § 48.65, Wis. Stats.; a day-care program established under § 120.13(14), Wis. Stats.; or a day-care provider certified under § 48.651, Wis. Stats.

OFFENDER

A person who has been convicted of or who has been found not guilty by reason of disease or mental defect of a sex offense as defined § 301.45(b), Wis. Stats., and/or crime against children, and required to be registered with the Wisconsin Sex Offender Registry under § 301.45(1g), Wis. Stats, who was tried as an adult; or who was deemed an offender under Ch. 980, Wis. Stats.

[Amended 8-16-2021]

PERMANENT RESIDENCE

~~The place where a person sleeps, abides, lodges or resides for 14 or more consecutive days or which qualifies as a residence under the laws of the State of Wisconsin, and may be mobile or transitory.~~ The place where the person's habitation is fixed, without any present intent to move, and to which, when absent, the person intends to return. A permanent residence does not include lodging or other locations where the intended purpose is to temporarily stay. No person gains a residence in the City regardless of length of stay while there for temporary purposes only.

PROPERTY OWNER

The owner of rental property, campgrounds, hotel/motels, apartment complexes, or any temporary lodging facility or space.

[Added 8-16-2021]

SEXUALLY VIOLENT OFFENSE

Shall have the meaning as set forth in § 980.01(6), Wis. Stats., as amended from time to time.

~~TEMPORARY RESIDENCE~~ **TEMPORARILY RESIDE**

Residence or premises meeting any of the following criteria:

- A. A **condition** place where the person sleeps, abides, lodges or resides for a period of **not more than** 14 or more days in the aggregate during any calendar year, and which is ~~not that person's permanent residence as defined in this section;~~
- B. ~~A place where the person routinely sleeps, abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month, and which is not that person's permanent residence as defined in this section; or~~
- C. ~~A place where a person sleeps, or which qualifies as a temporary residence under the holdings of the Wisconsin Supreme Court, and which may include more than one location, and may be mobile or transitory.~~

§ 9-9-3 **Domicile restrictions.**
[Amended 8-16-2021]

- A. Residency prohibited. No offender shall be permitted to reside in the City, and no supervised release of such offender shall be established in the City, **for more than 14 days in the aggregate during any calendar year** unless the offender was domiciled **as a permanent resident** in the City at the time of an offense resulting in such conviction or the person previously resided in the City for a continuous period of at least five years and that such residency has not lapsed for 10 or more years.
- B. Exemptions. An offender does not commit a violation of this chapter if any of the following apply:
 - (1) The offender is required to serve a sentence or is otherwise involuntarily required to reside in a jail, prison, juvenile facility, or other correctional institution or mental facility located in the City of Two Rivers.
 - (2) The offender has established a residence prior to the effective date of the ordinance codified in this section.
 - (3) The offender is a minor or ward under guardianship.
 - (4) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or child, provided that such parent, grandparent, sibling, spouse, or child established the residence at least five years before the designated offender intends to established residence at the location.

(5) Temporarily reside as defined in this section.

- C. It is unlawful for a property owner to let, rent, or lease any place, structure, or part thereof, trailer, other conveyance, **to any person other than to allow such person to temporarily reside in the City as defined in this section**, if the property owner knows or should have known that it will be used as a permanent or temporary residence by any offender prohibited from establishing residency in the City under the provisions of this chapter. Factors in considering whether a property owner knows or should have

known an offender's status is the presence of the offender's name listed on the State of Wisconsin's Sex Offender Registry which is readily available to public inspection on the state's website.

§ 9-9-4 Notification.
[Added 8-16-2021]

- A. Offenders subject to this chapter shall notify property owners of their offender status prior to entering into any room rental, apartment rental, lease, or property purchase for the purpose of establishing residency whether temporary or otherwise.
- B. Property owners who become aware that their property is being occupied by an offender in violation of this chapter shall notify the Chief of Police of such residence on their property, either temporary or permanent. Such notice shall be verbally or in writing.

§ 9-9-5 Public places.
[Amended 8-16-2021]

It is unlawful for an offender, as defined by § 9-9-2, to loiter or prowl, as said words are used in § 9-2-4 of this Code, or to be in a manner or in circumstances manifesting an intent to commit a "sex offense" as defined in Wis. Stats., § 301.45(b), and/or a crime against children, under the following circumstances:

- A. Within 500 feet of real property that supports or upon which there exists a facility for children, a public park/beach, a public swimming pool, a public library, or a public recreational trail; or
- B. Attendance at public events that are children focused, engage in trick-or-treating festivities, or engage in the wearing of costumes in public where the wearing of such costume is likely to attract children.

§ 9-9-6 Appeal.

The residency restrictions of this chapter may be waived upon approval of the City Council through an appeal by the affected offender. Such appeal shall be made, in writing, to the City Clerk, who shall forward the request to the City Manager and the Chief of Police. The Chief of Police shall forward a report on the appeal request to the City Council. The City Council will convene within 30 days of the appeal being filed with the Clerk to hear from the Chief of Police and the affected offender or their counsel. After deliberation, the City Council shall act on the recommendation. A written copy of the decision shall be provided to the affected offender by the City Clerk. The City Council may reject a waiver request when the request is filed with the City Clerk within 90 days of denial by the committee of a prior identical waiver request of the requester, absent a change in circumstances.

§ 9-9-7 Violations and penalties.
[Amended 8-16-2021]

Any person found guilty of violating this chapter shall be penalized by forfeiture not less than \$100 and not to exceed \$1,000, plus court costs. Each day an offender maintains a residence in violation of this chapter constitutes a separate violation. The City may also seek equitable relief.

§ 9-9-8 Severability.

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.