

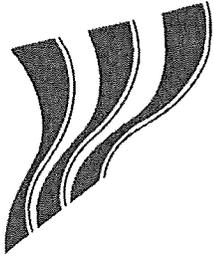
CITY OF WILLMAR

**COMMUNITY DEVELOPMENT COMMITTEE MEETING
4:45 PM, THURSDAY, MARCH 17, 2016
CONFERENCE ROOM #1
CITY OFFICE BUILDING**

**Chair: Rick Fagerlie
Vice Chair: Andrew Plowman
Members: Tim Johnson
Audrey Nelsen**

AGENDA

1. Meeting Called to Order
2. Public Comment
3. Ordinance Imposing Residency Restrictions on Sexual Offenders and Sexual Predators
4. Wye Project Update
5. Adjourn



CITY OF WILLMAR

Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311

COUNCIL ACTION REQUEST

DATE: March 17, 2016

SUBJECT: An Ordinance Imposing Residency Restrictions on Sexual Offenders and Sexual Predators
(see attached)

RECOMMENDATION: It is respectfully requested the City Council consider the following recommendation: That the Ordinance be introduced for a Public Hearing to be held April 4, 2016, and to ultimately adopt the Ordinance.

BACKGROUND: For the past several months, the Community Development Committee and full City Council have discussed the issue of regulating housing for convicted sexual offenders. These discussions were held in response to several citizen concerns over safety and neighborhood property values.

City Attorney Robert Scott previously advised the City Council as to its authority and limitations regarding the City's regulation of sexual offender housing. Although the City cannot impose an outright ban on such housing, it can reasonably restrict the location and concentration of the use by an ordinance that defines specific areas within which such housing is not permitted. For the purposes of this Ordinance, no designated offenders shall live within 500 feet of a school, licensed daycare center, park, public playground, or place of worship.

An initial part of the regulatory process will be to map areas where offenders may not live. Due to changes in property uses, said map will need to be updated annually. Contact with the Office of the Minnesota Commissioner of Corrections will be required to get information about, and track the residencies of, designated offenders.

FINANCIAL CONSIDERATION: The cost of enforcing the Ordinance is expected to be primarily for staff time. No additional funds have been budgeted for such enforcement. At this time, it would be difficult to estimate the budgetary impact of enforcement.

LEGAL: N/A

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW ARTICLE V IMPOSING RESIDENCY RESTRICTIONS
ON SEXUAL OFFENDERS AND SEXUAL PREDATORS TO MUNICIPAL CODE
CHAPTER 10, OFFENSES AND MISCELLANEOUS PROVISIONS

The City Council of the City of Willmar hereby ordains as follows:

Section 1. AMENDMENT OF MUNICIPAL CODE, CHAPTER 10, OFFENSES AND MISCELLANEOUS PROVISIONS. Chapter 10 of the Willmar Municipal Code is hereby amended by adding a new Article V, Sexual Offenders and Sexual Predators, imposing residency restrictions on sexual offenders and sexual predators as follows:

ARTICLE V. - SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec. 10-76. – Findings and Intent.

Sec. 10-77. – Definitions.

Sec. 10-78. – Residence Prohibition; Penalties; Exceptions.

Sec. 10-79. – Renting Real Property; Penalties.

Sec. 10-80. – Severability.

Sec. 10-76. – Findings and Intent.

- (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 the public safety. Sexual offenders are 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. The costs of this sexual offender victimization to society at large are severe.
- (b) Offenders who have committed certain statutorily designated sexual offenses and other identified offenses are required by Minnesota statutes to register their addresses, secondary addresses, work locations and vehicles with the Minnesota Department of Corrections.
- (c) Offenders who have committed the designated sexual and predatory offenses and are confined in Minnesota correctional facilities or treatment facilities are subject to review by an End of Confinement Review Committee (ECRC) established by the Minnesota Commissioner of Corrections, which assesses, reviews and assigns a risk level to the offender before the offender is released from confinement, all pursuant to Minnesota Statutes, Section 244.052. The offender is entitled to notice of the ECRC meeting and has the right to be present and be heard at the meeting.

- (d) The ECRC assigns offenders a risk level from I to III, with those assigned a risk level III having been assessed to have the highest risk of reoffending and thus posing the greatest risk to other residents of the city.
- (e) Research indicates the measurement of individual characteristics are the best predictors of likelihood of reoffending and the end of confinement review process follows the procedures for such individualized review identified in Minnesota Statutes, Section 244.052, resulting in the assigned risk level.
- (f) It is the intent of this Article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein those sexual offenders and sexual predators assessed to have the greatest likelihood of reoffending are prohibited from residing.

Sec. 10-77. – Definitions.

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

- (a) *Designated Offender.* The term “designated offender” means any person who has committed a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, or who has been categorized as a level III sex offender under Minnesota statutes section 244.052 or successor statute.
- (b) *Designated sexual offense.* The term “designated sexual offense” means a conviction, adjudication of delinquency, commitment under Minnesota Statutes, Chapter 253B, or admission of guilt under oath without adjudication involving any of the offenses identified under Minnesota Statutes, Section 243.166, Subdivision 1b, requiring the offender to register with the Department of Corrections, including offenses under a similar law of another state, as identified under Minnesota Statutes, Section 243.166, Subdivision 1b.
- (c) *Permanent residence.* The term “permanent residence” means a place where the person abides, lodges, or resides for 14 or more consecutive days.
- (d) *Temporary residence.* The term “temporary residence” means a place where the person abides, lodges, or resides for a period of 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 nonconsecutive days in any month and which is not the person's permanent residence.

- (e) *School*. The word “school” means any public or nonpublic elementary or secondary school, and shall include any structure, land, or facility owned, leased or used for operation of the school or school activities.
- (f) *Licensed day care center*. The term “licensed day care center” means any facility, center, home or institution where children are cared for pursuant to a license issued by the Kandiyohi County Health and Human Services Department.
- (g) *Park*. The word “park” means an outdoor area owned by a local government and maintained for public recreational use and/or preservation of natural space.
- (h) *Public playground*. The term “public playground” means an improved outdoor area owned by a local government and designed, equipped, and set aside for children’s play, and includes in that area such facilities as play equipment, surfacing, fencing, sign, internal pathways, internal land forms, vegetation and related structures.
- (i) *Place of worship*. The term “place of worship” means a place where persons regularly assemble for religious worship and which provides regular educational programs for children.

Sec. 10-78. – 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 500 feet of any school, licensed daycare center, park, public 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 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 offender is the parent or guardian of the children involved, and no nonfamilial children are present, are exempt from this subsection.
- (c) *Measurement of Distance*.
 - (1) For 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 the nearest outer property line of a school, daycare center, park, public playground, place of worship, or other place where children regularly congregate.

- (2) The city clerk shall maintain an official map showing prohibited locations as defined by this Article. The clerk shall update the map at least annually to reflect any changes in the location of prohibited zones.
- (d) *Penalties.* Any person violating any provision of this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 1-15 of this code. Each day a person maintains a residence in violation of this Article constitutes a separate violation.
 - (e) *Exceptions.* A designated offender residing within a prohibited area as described in subsection (a) of this section does not commit a violation of this section if any of the following applies:
 - (1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, Sections 243.166, 243.167, or successor statute, prior to July 1, 2016.
 - (2) The person was a minor when he/she committed the offense and was not convicted as an adult.
 - (3) The person is a minor.
 - (4) The school or daycare center within 500 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, Sections 243.166 or 243.167.
 - (5) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.
 - (f) Nothing in this section shall require any person or designated offender to sell or otherwise dispose of any real property acquired or owned prior to the conviction restricting residency under this Article.

Sec. 10-79. – Renting Real Property; 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 Section 10-78(a).

- (b) A property owner's failure to comply with provisions of this section shall constitute a violation of this section.
- (c) If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender.

Sec. 10-80. – Severability.

Should any section, subdivision, clause or other provision of this Article be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of this Article as a whole, or of any part thereof, other than the part held to be invalid.

Secs. 10-81. – 10.85.—Reserved.

Section 2. EFFECTIVE DATE. This ordinance shall be effective from and after July 1, 2016.

Passed by the City Council of the City of Willmar this ___ day of _____, 2016.

ATTEST:

Kevin Halliday, City Clerk

Marvin Calvin, Mayor

VOTE: _____ AHMANN _____ ANDERSON _____ CHRISTIANSON
_____ FAGERLIE _____ JOHNSON _____ MUESKE _____ NELSEN _____ PLOWMAN

This Ordinance introduced by Council Member: _____

This Ordinance introduced on: _____

This Ordinance published on: _____

This Ordinance given a hearing on: _____

This Ordinance adopted on: _____

This Ordinance published on: _____