

**TOWN OF HARMONY
ORDINANCE NO. _____**

AN ORDINANCE CREATING CHAPTER 20 OF THE MUNICIPAL CODE OF THE TOWN OF HARMONY REGARDING SEX OFFENDER RESIDENCY WITHIN THE TOWN OF HARMONY.

SECTION 1. Chapter 20 of the Town of Harmony Municipal Code is hereby created to read as follows:

Sex Offender Residency Ordinance

Section 1: 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 Town 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.

Section 2: Purpose.

It is the intent of this Ordinance to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Town of Harmony, especially children, by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

Section 3: Definitions.

- A. *Sex Offender.* A person who has been convicted of, has been found delinquent of, or has been found not guilty by reason of disease or mental defect of a Sexually Violent Offense or a Crime Against Children, as defined below.
- 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:

1. Wis. Stat. § 940.225(1) – First Degree Sexual Assault
2. Wis. Stat. § 940.225(2) – Second Degree Sexual Assault
3. Wis. Stat. § 940.225(3) – Third Degree Sexual Assault
4. Wis. Stat. § 940.22(2) – Sexual Exploitation by Therapist
5. Wis. Stat. § 940.30 – False Imprisonment – Victim was Minor and not Offender’s Child
6. Wis. Stat. § 940.31 – Kidnapping – Victim was Minor and not Offender’s Child
7. Wis. Stat. § 944.02 – Rape (prior statute, now Wis. Stat. §940.225)
8. Wis. Stat. § 944.06 – Incest
9. Wis. Stat. § 944.10 – Sexual Intercourse with a Child (prior statute, now Wis. Stat. § 948.02)
10. Wis. Stat. § 944.11 – Indecent Behavior with a Child (prior statute, now Wis. Stat. § 948.02)
11. Wis. Stat. § 944.12 – Enticing Child for Immoral Purpose (prior statute, now Wis. Stat. § 948.07)
12. Wis. Stat. § 948.02(1) – First Degree Sexual Assault of a Child
13. Wis. Stat. § 948.02(2) – Second Degree Sexual Assault of a Child
14. Wis. Stat. § 948.025 – Engaging in Repeated Acts of Sexual Assault of the Same Child
15. Wis. Stat. § 948.05 – Sexual Exploitation of a Child
16. Wis. Stat. § 948.055 – Causing a Child to View or Listen to Sexual Activity
17. Wis. Stat. § 948.06 – Incest with a Child
18. Wis. Stat. § 948.07 – Child Enticement
19. Wis. Stat. § 948.075 – Use of a Computer to Facilitate a Child Sex crime
20. Wis. Stat. § 948.08 – Soliciting a Child for Prostitution
21. Wis. Stat. § 948.095 – Sexual Assault of a Student by School Instruction Staff
22. Wis. Stat. § 948.11 (2)(a) or (am) – Exposing Child to Harmful Material
23. Wis. Stat. § 948.12 – Possession of Child Pornography
24. Wis. Stat. § 948.13 – Convicted Child Sex Offender Working with Children
25. Wis. Stat. § 948.30 – Abduction of Another’s Child
26. Wis. Stat. § 971.17 – Not Guilty by Reason of Mental Disease or Defect of Included Offense
27. Wis. Stat. § 975.06 – Sex Crimes 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 dates during any calendar year and four or more days in any month. A person may have more than one residence.

Section 4: Residency Restriction.

- 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.
 7. A residence care center for children.
 8. A public swimming pool.
 9. A place of worship.
- 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.

Section 5: Residency Restrict Exceptions

A Sex Offender residing within an area otherwise prohibited by Section 4 does not commit a violation of this Ordinance if any of the following apply:

- A. The person is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.
- B. The person had established a Residence, as defined in Section 3 above, at the location prior to the effective date of this Ordinance.
- C. The use enumerated in Section 4 was established after the Sex Offender established a Residence at the location and registered that residence as required by law.
- D. The Sex Offender is a minor or ward under guardianship.

Section 6: Original Residency Restriction

In addition to the other residency restrictions set forth herein and subject to the limitations in Section 5, no Sex Offender may establish a residence in the Town

of Harmony unless he or she was a resident of Rock County 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 the Sex Offender's family means the Sex Offender's mother, father, brother, sister, child, or grandparent.

Section 7: Rental of Property for use by Sex Offenders

No person may 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 Ordinance.

Section 8: Enforcement

A person violating this Ordinance shall be subject to forfeitures in an amount of not less than \$200 nor more than \$500 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 Ordinance are also deemed public nuisances and the Town may bring an action in the Circuit Court of Rock County to enjoin or abate any violation.

Section 9: Effective Date and Publication

This Ordinance shall take effect upon passage and posting as required by law.

DATE: _____

Jeff Klenz, Town Chair

CERTIFICATION

I hereby certify that the above ordinance number _____ was adopted by the Town Board of the Town of Harmony on the ___ day of _____, 20___, and that on the _____ day of _____, 20___, a copy of the above ordinance was posted as required by state statute in the Town as follows:

Harmony Town Hall, 440 N Hwy 14, Janesville WI
Town of Harmony Website (www.townofharmony.com)
JAMC, 5021 N Hwy 26, Milton WI

Tim Tollefson, Town Clerk,
Town of Harmony
Rock County, Wisconsin

Subscribed and sworn to before me this
_____ day of _____, 2019.

Notary Public, Rock County, Wisconsin
My Commission expires _____