

ORDINANCE NO. 549

**AN ORDINANCE OF THE MUNICIPAL CODE OF THE CITY OF
KIEL CREATING SEXUAL OFFENDER RESIDENCY RESTRICTIONS**

The Common Council for the City of Kiel do ordain as follows:

SECTION 1: Section 9.29 is created to now read as follows:

SEXUAL OFFENDER RESIDENCY RESTRICTIONS.

(1) FINDING AND ISSUE:

- (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 public safety. Sexual offenders are extremely 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. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (b) It is the intent of this section not to impose a criminal penalty but rather 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 certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

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

- (a) Child means a person under the age of 18 for the purpose of this section.
- (b) Designated Offender means any person who is required to register under Wis. Stat. ' 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. ' 301.45 for whom a bulletin to law enforcement agencies has been issued under Wis. Stat. ' 301.46(2m).
- (c) Loitering means 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.
- (d) Permanent Residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

- (e) Temporary Residence means a place where the person abides, lodges, or resides for a period of fourteen (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 non-consecutive days in any month and which is not the person's permanent residence.
 - (f) Adult Child for the purposes of this section means a person who is 18 years of age or older.
- (3) SEXUAL OFFENDER AND SEXUAL PREDATOR 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 1,000 feet of any school, licensed day care center, park, recreational trail, playground, place of worship or library.
 - (b) Prohibited Loitering. It is unlawful for any designated offender to loiter within 500 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City as a place where children are known to congregate.
 - (c) 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. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.
 - (d) Measurement of Distance.
 - 1. For the 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 nearest outer property line of a school, licensed day care center, park, recreational trail, playground, place of worship or any other place designated by the City as a place where children are known to congregate.
 - 2. The Kiel Police Department shall prepare an official map showing prohibited locations as defined by this section. The Kiel Police Department shall also maintain the map on file at the Kiel Police Department and update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.
 - (e) Exceptions. A designated offender residing within a prohibited area as described in paragraph (3) does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. ' 301.45 before the effective date of this ordinance.
2. The person is a minor or ward under guardianship.
3. The school, licensed day care center, park, recreational trail or playground within 1,000 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 Wis. Stat. ' 301.45.
4. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse or adult children, provided that such parent, grandparent, sibling, spouse or adult child established the residence at least two years before the designated offender established residence at the location.

(f) Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators.

1. 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 paragraph 3(a), and not subject to an exception set forth in paragraph 3(e) above.
2. A property owner's failure to comply with this section shall constitute a violation of this ordinance and shall subject the property owner to the penalties set forth in Section (5).

(g) Appeal.

1. The above 1,000 foot requirement may be waived upon approval of the Kiel City Council through appeal by the affected party. Such appeal shall be made in writing to the City Clerk's Office, who shall forward the request to the Kiel City Council, which shall receive reports from the City of Kiel Police Department on such appeal. The Kiel City Council shall convene and consider the public interest, as well as the affected party's presentation and concerns. After deliberation, the Kiel City Council shall forward its decision in writing via the minutes or otherwise to the City of Kiel Police Department for their information and action. A written copy of the decision shall be provided to the affected party.

- (4) SEVERABILITY. The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this Ordinance or the application to any person or circumstance are held invalid, the remainder of this Ordinance or the application of such other provisions to other persons or circumstances shall not be affected.
- (5) PENALTIES. A person who violates any provision of this section shall be punished by a forfeiture set forth in Section 25.04 of this Municipal Code. Each day a person maintains a residence in violation of this section constitutes a separate violation. The City of Kiel may also seek equitable relief.

SECTION 2: This ordinance shall take effect upon passage and publication in accordance of law.

Ordinance No. 549 was introduced and its adoption moved by Alderperson Brocker, seconded by Alderperson Grube. Upon a roll call of votes, thereon, the results were as follows:

Votes Cast	6
Votes Aye	6
Votes Nay	0

Mayor Michael Steinhardt declared Ordinance No. 549 adopted, approved and signed the same this 23rd day of January, 2018.

/S/
MICHAEL STEINHARDT, Mayor

COUNTERSIGNED:

/S/
JAMIE J. AULIK, City Administrator

Published: February 1, 2018