



# City of Racine

City Hall  
730 Washington Ave.  
Racine, WI 53403  
www.cityofracine.org

## Meeting Agenda - Final Public Safety and Licensing Committee

*Chairman Alderman Gregory Holding*  
*Vice Chairman Alderman Robert Mozol*  
*Alderman Melissa Kaprelian-Becker*  
*Alderman Krystyna Sarrazin*  
*Alderman Molly Hall*

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Monday, April 8, 2013

5:30 PM

City Hall, Room 205

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### Call To Order

Approval of Minutes for the March 25, 2013 Meeting.

### PUBLIC HEARING ON ORD. 07-13

Ord.07-13

Ordinance 07-13

An ordinance creating Chapter 3, Sections 3.1 - 3.9, of the general ordinances of the City of Racine, Racine County, Wisconsin relating to sexual offender residency restrictions.

WHEREAS, the Wisconsin State Statutes provide for the punishment, treatment and supervision of persons convicted or otherwise responsible for sex crimes against children, including their release into the community; and

WHEREAS, Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender, and specifically, at Sec. 980.08, Stats., following such commitment, under certain conditions, provides for the supervised release of such persons into the community; and

WHEREAS, the City of Racine Common Council places a high priority on maintaining public safety through highly skilled and trained law enforcement as well as dependency upon laws that deter and punish criminal behavior; and

WHEREAS, the Common Council having considered the community's responsibility to provide residency for sexual offenders, but also restrictions on that residence to further protect children, and upon all of the records, files, reports and proceedings pertaining to the subject matter, and all of the prior actions and experience of the City of Racine in protecting the community from sexually violent persons, finds this

ordinance will serve to protect the health, safety and welfare of the community.

NOW, THEREFORE, the Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 3, Sections 3.1 - 3.12 of the City of Racine ordinances relating to Residency Restrictions for Sexual Offenders is hereby created to read as follows:

**“Section 3.1. - Sexual offender residency restrictions.**

**(1) Finding 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 public safety. Sexual offenders are likely to use physical violence; 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. Thus, the cost of sexual offenders to society at large is difficult to calculate.

(b) It is the intent of this ordinance not to impose a criminal penalty, but instead 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 the locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from entering or residing.

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

(a) “Child” or “Children” means person(s) under the age of eighteen (18) years for purposes of this ordinance.

(b) “Designated Offender” means any person who is or was required to register under Section 301.45, Wisconsin Statutes, for any sexual offense against a child, or any person who is or was required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.

(c) “Minor” means a person under the age of seventeen (17) years.

(d) “Permanent Residence” means a place where the Designated

Offender lodges or resides for fourteen (14) or more consecutive days.

(e) "Temporary Residence" means either: (1) 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, (b) a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's Permanent Residence.

**Section 3.2. - Prohibited location of residence for designated sex offenders.**

(1) **Child Safety Zones.** No designated sex offender shall establish a permanent residence or temporary residence on property that is within 1,000 feet of real property consisting of any of the following:

(a) A "public school" as defined by Wis. Stat. § 115.01(1); a "private school" as defined by Wis. Stat. § 115.001(3); a "charter school" as defined by Wis. Stat. § 115.001(1); a "specialty school," meaning any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, or music school.

(b) A "day care center" means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before-and-after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).

(c) A "library" means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.

(d) A "park" means any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach.

(e) A "playground" means any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, sandboxes, seesaws, and any area where athletics may be played and is public property.

(f) "House of Worship" means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.

(g) "Swimming pool" means any swimming pool, wading pool, or other aquatic facility held open for use by the public.

(2) **Original Domicile Restriction.** *In addition to and not the exclusion or prejudice of the foregoing,* no designated sex offender shall be permitted to reside in the City of Racine unless the person was domiciled in the City of Racine at the time of the offense resulting in the person's most recent conviction or a designated sex offender crime.

(3) **Distances.** For purposes of this section, distances shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time-to-time, is on file at the Office of the City Clerk for public inspection pursuant to Section 3.6 of this ordinance.

(4) **Exceptions.** A designated sex offender residing within a prohibited area as described in Section 3.2(1) or 3.2(2) does not commit a violation of Section 3.2 if any of the following apply:

(a) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wisconsin Statute § 301.45 before the effective date of this Ordinance.

(b) The person was a minor at the time of the offense and is not required to register under Wisconsin Statute § 301.45 or § 301.46.

(c) The applicable use described in Section 3.2(1) began after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wisconsin Statutes § 301.45.

(d) The residence is also the primary residence of the designated sex offender's parents, grandparents, siblings, spouse or child(ren), provided that such person established the residence at least one (1) year before the designated sex offender established residence at the location.

(5) This ordinance is not intended to limit any persons from exercising their right to assemble or engage in any other constitutionally protected activity. The ordinance only applies to individuals with the requisite intent to induce or lure a child away from a child's location within a child safety zone.

**Section 3.3. - Child Safety Zones.**

No designated sex offender shall enter, loiter or otherwise be present

upon any real property designated as a child safety zone.

**Section 3.4. - Child Safety Zone Exceptions.**

A person does not commit a violation of Sec. 3.3 and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

(1) The property supporting an enumerated use under Section 3.2 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:

(a) Entrance and presence upon the property occurs only during hours of worship or other religious program / services as posted to the public; and

(b) Written advance notice is made from the person to an individual in charge of the property and approval from an individual in charge of the property as designated by the property is made in return, of the attendance by the person; and

(c) The person shall not participate in any religious education programs which include individuals under the age of 18.

(2) The property supporting an enumerated use under Section 3.2 also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:

(a) Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and

(b) Written advance notice is made from the person to an individual in charge of the use upon the property, and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person; and

(3) The property surrounding an enumerated use under Section 3.2 also supports a polling location in a local, state or federal election, subject to the following conditions:

(a) The person is eligible to vote;

(b) The designated polling place for the person is an enumerated use;

and

(c) The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the designated sex offender vacates the property immediately after voting; and

(4) The attendance is authorized by the designated sex offender's conditions of supervision, if on parole.

**Section 3.5. - Other prohibited activity.**

It is unlawful for any designated sex offender to participate in a holiday event in the City of Racine involving one or more child by means of: distributing candy or other items to such child or children on Halloween; wearing a Santa Claus costume on, or during any of the thirty days preceding Christmas; wearing an Easter Bunny costume on or during any of the thirty days preceding Easter; or by engaging in any other similar type(s) of activity that may, under the circumstances then present, tend to entice a child to have contact with a designated sex offender. Holiday events in which the designated sex offender is the parent or legal guardian of the child or children involved, and no other children are present, are exempt from this paragraph.

**Section 3.6. - Child safety zone map.**

The City Clerk shall maintain an official map showing locations identified in 3.2(1) of this ordinance. The City Clerk shall cause such map to be updated at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as "child safety zones." The map is to be displayed in the office of the City Clerk in the event of a conflict, the written terms of this ordinance shall control.

**Section 3.7. - Penalties.**

(1) Any violation of this section shall be subject to a forfeiture not exceeding \$1,000.00. Each day of each violation shall constitute a separate offense.

(2) Violation of this ordinance shall constitute a public nuisance, which, in addition to monetary forfeitures shall be subject to action by the City to abate and enjoin such nuisance.

**Section 3.8. - Injunctive relief.**

If a person violates any provision of this section listed above, without

any exception(s) as also set forth above, the City Attorney, upon referral from the Chief of Police and the written determination by the Chief of Police that upon all of the facts and circumstances and the purpose of this section, such residence occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the City in the Circuit Court for Racine County to permanently enjoin such residence as a public nuisance.

**Section 3.9. - Property owners prohibited from renting real property to sexual offenders.**

It is unlawful to let or rent any place, structure or part thereof, manufactured home, 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 by any person prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this ordinance, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within 2,000 feet of any prohibited locations.

**Section 3.10. - Notification.**

Consistent with State requirements, the State agency working with the sex offender must notify the Alderman of the District and the Racine Police Chief a minimum of fourteen (14) days prior to establishing either a permanent residence or temporary residence within the City of Racine.

**Section 3.11. - Appeal of designated offender status.**

(1) Request for exception to restrictions under subsections 3.2 and 3.3.

(a) The 1,000 foot residence requirements set forth above may be waived or modified upon approval of the Public Safety and Licensing Committee (PS&L Committee) through appeal by the State or the affected party. Such appeal shall be made in writing to the City Clerk's office, who shall forward the request to the Common Council for referral to the PS&L Committee, which shall receive reports from the Racine Police Department on such appeal.

(b) The PS&L Committee shall convene within 15 days of the clerk-treasurer's receipt of the request for exemption.

The PS&L Committee shall consider the public interest as well as the affected party's presentation and concerns. In making its determination

under this provision, the appeal board may consider any or all of the following factors that may be applicable in the particular request:

*i. The circumstances of the case(s) that have led to the designated offender status including:*

- a. Relationship of offender and victim.
- b. Presence of use of force
- c. Presence of enticement.
- d. Proximity in time.
- e. Time out of incarceration.

*ii. Credibility of offender.*

*iii. Remorse.*

*iv. Proximity of proposed residence to a child safety zone under subsection 3.2(1).*

*v. Support network of offender.*

*vi. Counseling and treatment.*

(2) **Decision of PS&L Committee.** After deliberation, the PS&L Committee shall issue its decision in writing and forward the same to the police department for their information and action. A written copy of the decision shall be provided to the affected party. The decision of the PS&L Committee shall be final.

### **3.12. - Severability.**

The provisions of any part of this chapter are severable. If any provisions or subsection hereof or the application thereof to any person or circumstances, is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this chapter that the same would have been adopted had such invalid provisions, if any, not been included herein.

Part 2: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City Common Council and publication or posting as required by law.

Passed by the Common Council:

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Approved:

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Mayor

Attest:

\_\_\_\_\_  
City Clerk

Fiscal Note: N/A

Sponsors: Molly Hall

[13-8802](#) **Subject:** Communication requesting Change of Agent for Michigan Pub, LLC, 1300 Michigan Blvd.- Scott A. Jensen, Agent, "Class B" Fermented Malt Beverage and Intoxicating Liquor license (4th District).

[13-8803](#) **Subject:** Communication requesting Change of Agent for Beachside Oasis, LLC, 100 Kewaunee Street.- Scott A. Jensen, Agent, Class "B" and "Class C" Fermented Malt Beverage and Wine license (4th District).

[13-8785](#) **Subject:**(Direct Referral) Request of the Committee for the appearance of Gerald Bester, Agent for Gerald's Smokehouse, 1501 Washington Avenue regarding an incident at your establishment on 10-21-2012.

[13-8788](#) **Subject:**(Direct Referral) Sale of Abandoned Vehicles 4-8-2013

[13-8816](#) **Subject:** (Direct Referral) License Premise Report and DRC Report for April 8, 2013

## Adjournment

**If you are disabled and have accessibility needs or need information interpreted for you, please contact City Clerk's Office at (262) 636-9171 at least 48 hours prior to this meeting.**