

**AGENDA
CITY COUNCIL
WORK SESSION
CITY OF WYOMING, MINNESOTA
MAY 3, 2022
5:30 PM**

CALL TO ORDER:

CALL OF ROLL:

DETERMINATION OF A QUORUM:

PLEDGE OF ALLEGIANCE:

NEW BUSINESS:

1. Review the City of Wyoming Sexual Predator Ordinance

ADJOURN



Request for Council Action

Date: April 28, 2022

Presented to: Mayor Iverson and City Council Members

Presented by: Robb Linwood, City Administrator

Department: Administration

Reference: Predatory Offender Ordinance

Method: Work Session

Background Information:

The City of Wyoming has been reviewing the Sexual Predator Ordinance that was established in 2009. In recent years, approximately 90 localities across Minnesota have approved sex-offender residency restrictions in their city or county. These ordinances bar people convicted of certain sex offenses from living within certain distances of schools, parks, playgrounds, churches and child care centers.

Recently, many of these ordinances have been challenged in court due to the ordinances being declared so broad that the majority of residential properties within the city's boundaries are off-limits to offenders. Attorneys representing the challengers argue that the measures violate civil rights and hamper efforts by the state to integrate offenders back into society. There have been multiple settlement agreements around the metro area for cities that have been sued and had to pay large settlements due to the level of restrictions in their ordinances. In one case a city's ordinance was ruled or in void by a district court.

Public Safety Director Bauer, Assistant City Administrator Saxe, Paul Hornby of WSB and myself have been working together to update the ordinance and provide an updated map for predatory offenders. Staff reviewed the existing city's ordinances that included West St. Paul, Apple Valley, and Dayton that have had litigation against them or ordinance was ruled on in void by a district court. Since court orders and litigation these cities have updated their ordinance to still have an active predatory offender ordinance, but not so restrictive it results in litigation.

Staff has supplied a redlined ordinance for councils review and discussion. The only major change in the ordinance was the removal of it is unlawful for any designated offender to establish a permanent residence or temporary residence



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within 1,000 feet of a bus stop. This portion of our ordinance is similar to other cities that faced litigation due to that the language surrounding bus stops made the ordinance extremely restrictive for places to live in the city.

This change is identified in an updated draft map that is supplied for council review. Staff would like to have a discussion and be supplied with feedback from the city council about the updated draft ordinance and map.



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DIVISION 6. ~~PREDATORY SEXUAL OFFENDERS AND SEXUAL PREDATORS~~

Sec. 16 – 110. Findings and intent.

- (1) Repeat ~~predatory sexual~~-offenders, ~~predatory sexual~~-offenders who use physical violence, and ~~predatory sexual~~-offenders who prey on children are ~~sexual~~-predators who present an extreme threat to the public safety. Current information indicates that ~~predatory sexual~~-offenders are extremely likely to use physical violence and to repeat their offenses, and most ~~predatory 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 ~~predatory sexual~~-offender victimization to society at large and specifically to the City of Wyoming ("City"), while incalculable, clearly exorbitant.
- (2) It is the intent of this division 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 ~~predatory sexual~~-offenders and ~~sexual predators~~ are prohibited from establishing temporary or permanent residence.

Sec. 16 – 111. 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:

- (1) Designated offender: Means any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, or who has been categorized as a Level III sex offender under Minnesota Statute § 244.052 or successor or amended statute.
- (2) Designated sexual offense: Means a conviction, adjudication of delinquency, commitment under Minnesota Statute §§ 253B, or admission of guilt under oath without adjudication involving any of the following offenses: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor or amended statute, or a similar offense from another state.
- (3) Permanent residence: Means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days. Permanent residence does not require an ownership interest by the person in such residence.
- (4) 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 nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 16 – 112. ~~Predatory Sexual-offender and Sexual-Predator~~ Residence Prohibition; Penalties; Exceptions.

- (1) Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence:
 - (a) Within two thousand (2,000) feet of any school, licensed day care center, ~~park, or playground~~park, playground; or other public facilities designed or used for youth activities, including recreation centers, ice arenas, and aquatic centers.
 - (b) Within one thousand (1,000) feet of any ~~designated public school bus stop~~, place of worship which provides regular educational programs (i.e. Sunday school), or other places where children are known to congregate.
- (1) Prohibited activity. It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (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 non-familial children are present, are exempt from this paragraph.
- (2) Measurement of distance.
 - (a) 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 nearest outer property line of a school, ~~designated public school bus stop~~, day care center, park, playground, place of worship, or other place where children regularly congregate.
 - (b) The ~~Public Safety Director~~ City Clerk shall maintain an official map showing prohibited locations as defined by this Ordinance. ~~The Public Safety Director Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all-encompassing~~ since prohibited zones change from time to time including but not limited to designated public school bus stops or other places where children are known to congregate.
- (3) Penalties. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation.
- (4) Exceptions. A designated offender residing within a prohibited area as described in Sec. 16 – 112, (1), does not commit a violation of this section if any of the following apply:
 - (a) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166, § 243.167, or successor statute, prior to April 4, 2006.

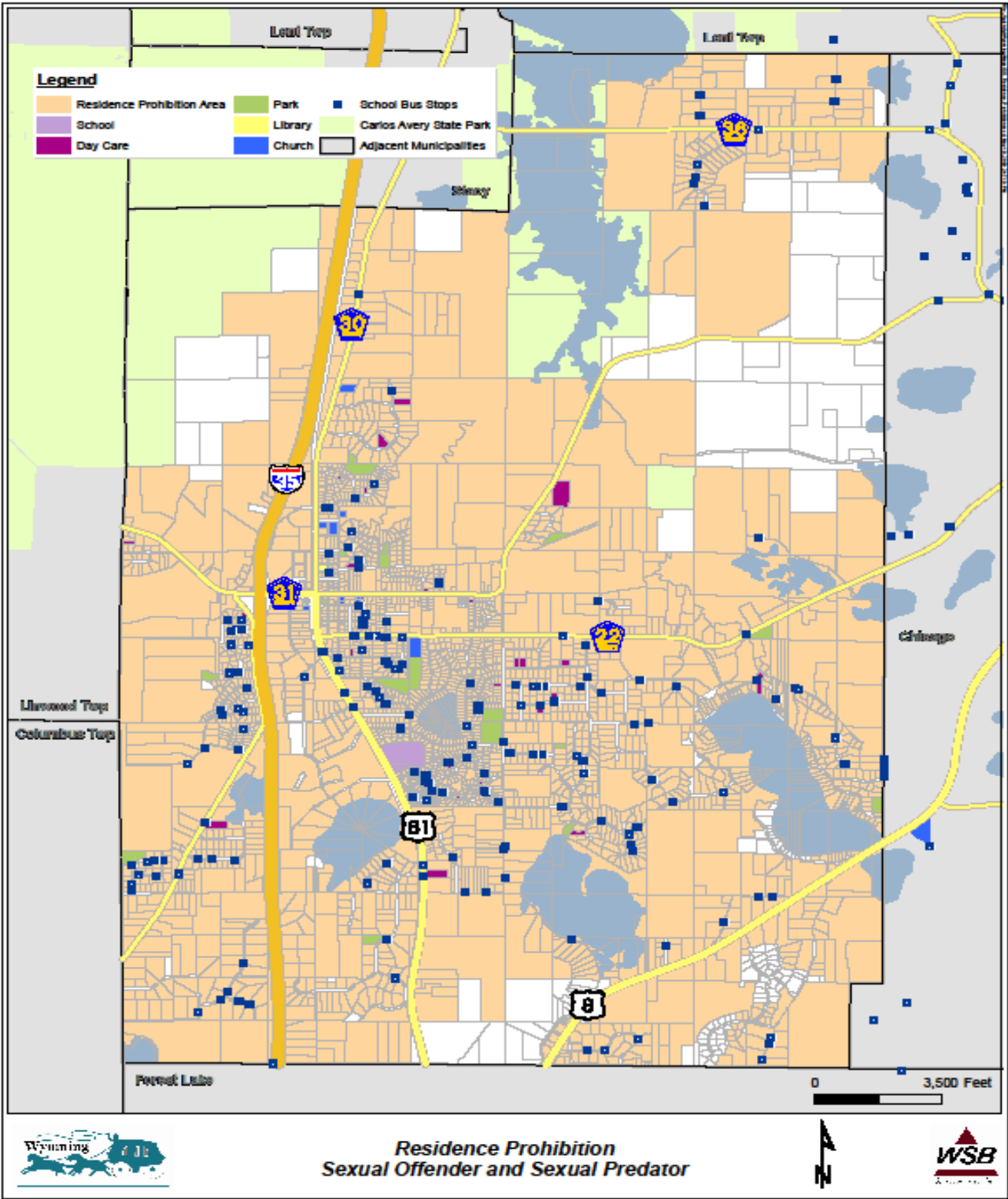
- (b) The person was a minor when they committed the offense and was not convicted as an adult.
- (c) The person is a minor.
- (d) The school, ~~designated public school bus stop~~ or day care center within two thousand (2,000) feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166 or § 243.167.
- (e) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.
- (f) The residence is a property owned or leased by the Minnesota Department of Corrections.

Sec. 16 – 113. Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.

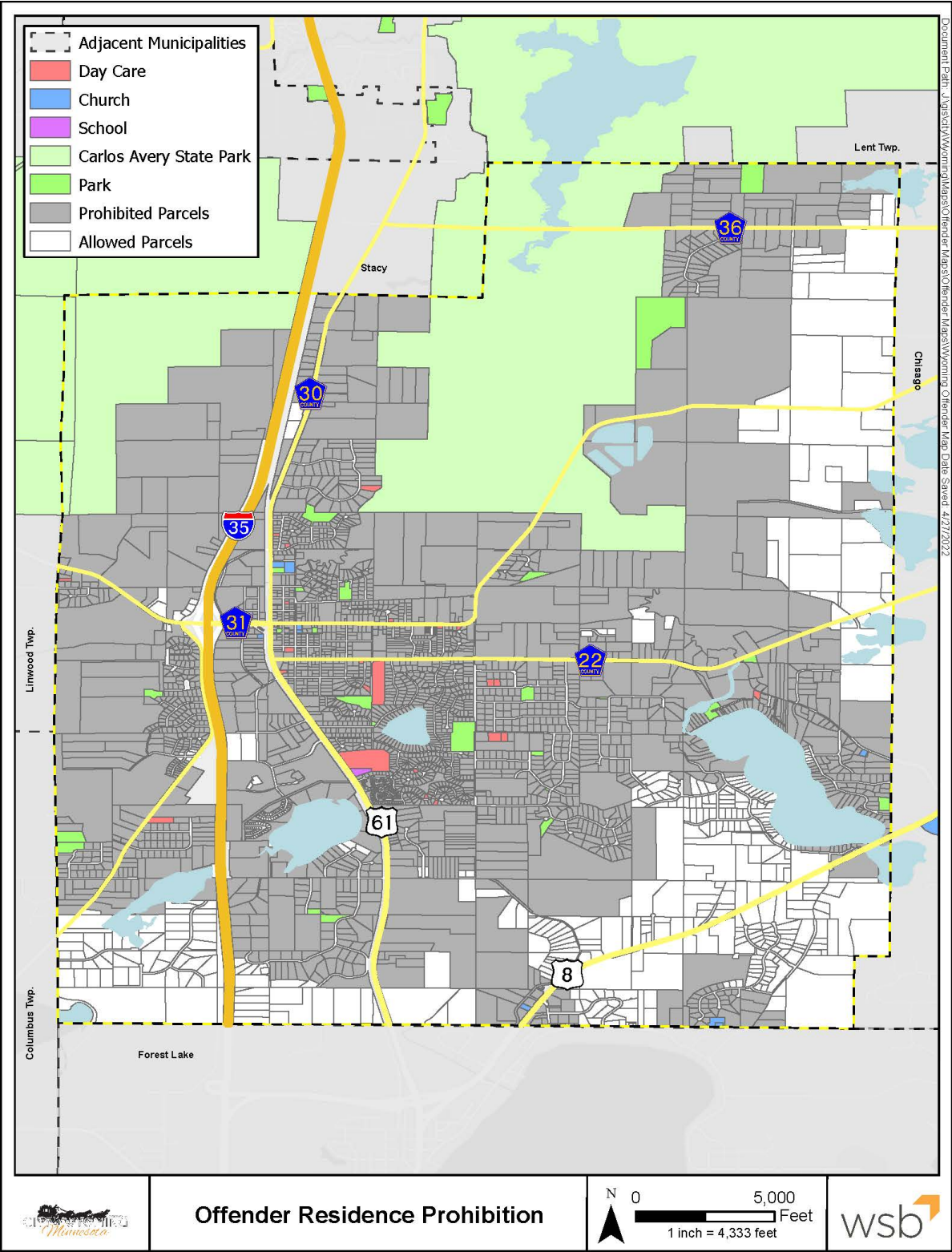
- (1) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this Division, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in this ordinance.
- (2) A property ~~owners~~owners' failure to comply with provisions of this Section shall constitute a violation of this Section, and shall subject the property owner to the code enforcement provisions and procedures as provided in Sec. 1-13 of this Code, including the provisions of Sec. 1-13 that allow the City to seek relief as otherwise provided by law.
- (3) 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.

Secs. 16 – 114—16 – 119. Reserved.

Sexual-Offender-Residence-Prohibition-Map.



Predatory Offender Residence Prohibition Map.



DIVISION 6. SEXUAL OFFENDERS AND SEXUAL PREDATORS

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- (3) Penalties. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation.
- (4) Exceptions. A designated offender residing within a prohibited area as described in Sec. 16 – 112, (1), does not commit a violation of this section if any of the following apply:
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 - (b) The person was a minor when they committed the offense and was not convicted as an adult.

- (c) The person is a minor.
- (d) The school, designated public school bus stop or day care center within two thousand (2,000) feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166 or § 243.167.
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- (f) The residence is a property owned or leased by the Minnesota Department of Corrections.

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- (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 Division, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in this ordinance.
- (2) A property owners failure to comply with provisions of this Section shall constitute a violation of this Section, and shall subject the property owner to the code enforcement provisions and procedures as provided in Sec. 1-13 of this Code, including the provisions of Sec. 1-13 that allow the City to seek relief as otherwise provided by law.
- (3) 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.

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Sexual Offender Residence Prohibition Map.

