

## **409: Predatory Offender Residency Restrictions**

### **409.010: Definitions**

### **409.020: Regulations on Designated Predatory Offenders**

**409.030: A designated predatory offender does not violate this chapter if any of the following apply**

### **409.040: Penalty and Enforcement**

### **409.050: Renting Properties and Penalties**

### **409.060: Severability**

### **Findings and Intent:**

Predatory offenders present an extreme threat to public safety. It is the intent of this chapter to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the community by restricting certain predatory offenders from establishing residency near locations where children regularly congregate in concentrated numbers.

The website for the Minnesota Department of Corrections states, "All predatory offenders who are required to register as sex-offenders are also assigned a level 1, 2, or 3 when they leave prison. Level 3 is considered the highest risk to re-offend. If a level 3 offender moves into your neighborhood, you will be notified by law enforcement."

The Department of Corrections cites statistics indicating that most offenders victimize someone they already know and most offenders do not commit offenses near their own place of residence. However, those statistics do not hold true for all offenders. This ordinance, in conjunction with Birchwood's Safe Zone Ordinance, aims to reduce opportunities for predatory behavior by those with the highest risk to re-offend, toward potential victims who access public spaces in Birchwood.

### **409.010: Definitions**

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

1. "Designated predatory offender" means any person who has been categorized as a Level III predatory offender under Minnesota Statutes, section 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.
2. "Permanent residence" means a place where a person abides, lodges or resides for fourteen (14) or more consecutive days. A permanent residence includes the entire property upon which a dwelling sits, extending out to the property line.

3. "Temporary residence" means a place where a 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 (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence. A temporary residence includes the entire property upon which a dwelling sits, extending out to the property line.
4. "School" means any public or nonpublic elementary school, secondary school, high school or college.
5. "Licensed day care" means any in-home or other group child care center currently licensed by the State of Minnesota.
6. "Public Park" means the following Birchwood public parks and lake easements or beaches: Bloomquist Park/Field, Tighe-Schmitz Park, Wildwood Park, Nordling Park, Ash Beach, Birch Beach, Dellwood Beach, Elm Beach, and Kay Beach.
7. "Prohibited zone" means the area(s) that include one or more permanent residence(s) or temporary residence(s) that is/are 1000-feet or less from any school, licensed day care, or public park. The measurements shall be taken as the shortest possible distance between an outermost property line of a permanent or temporary residence to an outermost property line of the nearest school, licensed day care or public park.

#### **409.020: Regulations on Designated Predatory Offenders**

1. It shall be unlawful for any designated predatory offender to establish a permanent or temporary residence entirely within or touching upon a prohibited zone.
2. The city clerk shall maintain a map showing locations within prohibited zones, as defined by this chapter. The map shall serve as a guide but is not determinative of whether or not a residence is within a prohibited zone. When called upon, the city engineer shall conduct an assessment to determine whether or not a particular residence is within a prohibited zone.

#### **409.030: A designated predatory offender does not violate this chapter if any of the following apply:**

1. The person established permanent residence within a prohibited zone prior to the adoption of this chapter, and he has reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167 or a successor statute.
2. The person is a minor and the permanent or temporary residence is also the permanent residence of the person's custodial guardian(s).
3. The school or licensed day care within 1,000 feet of the persons' permanent or temporary residence was opened after the person established permanent residence

and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167 or a successor statute.

4. The residence is a property owned or leased by the Minnesota Department of Corrections in operation prior to adoption of this chapter.

**409.040: Penalty and Enforcement**

1. A violation of this ordinance shall be a misdemeanor. In addition, the City may enforce this Ordinance by mandamus, injunction, and other appropriate remedy in any court of competent jurisdiction.

**409.050: Renting Properties and Penalties:**

1. It is unlawful to let or rent any place, structure, or part thereof, trailer, or other conveyance, with knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing a permanent residence or temporary residence pursuant to this Chapter if such place, structure or part thereof, trailer, or other conveyance is located within a prohibited zone described in this chapter.

2. A property owner's failure to comply with the provisions of this chapter shall constitute a violation of this chapter.

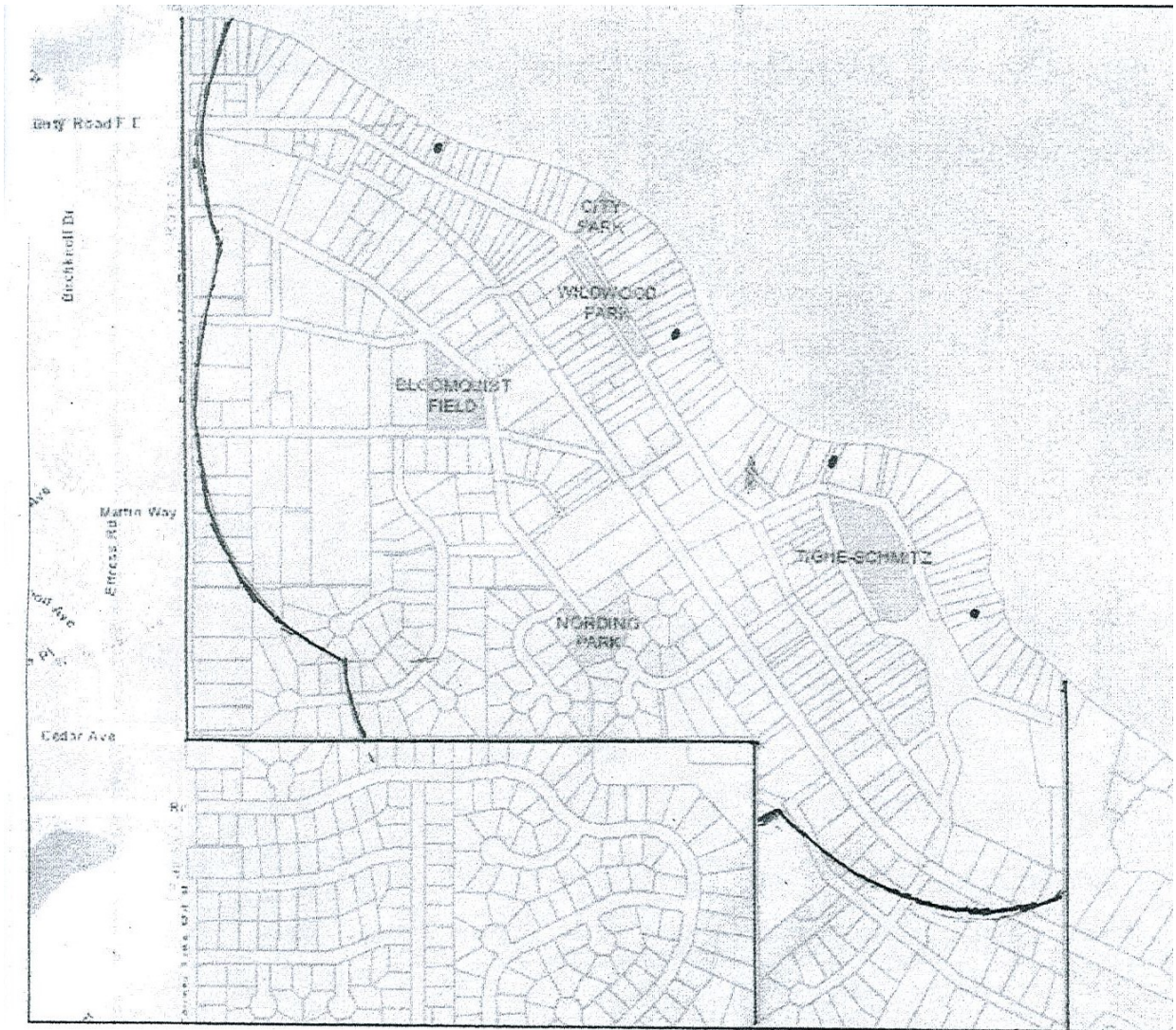
3. If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager shall evict the offender.

**409.060: Severability:**

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

**“ADOPTED BY ORDINANCE; September 13, 2016”**

# MAP



City of Birchwood Village, Minnesota - 1,000' Distance from City Parks