



AGENDA OF THE EMERGENCY MEETING
OF THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
November 24, 2015
7:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

CITY BUSINESS – REGULAR AGENDA

- A. Second Reading of Ordinance 2015-08-03: Sexual Offenders and Sexual Predators*
 - a. Public Hearing
 - b. Council Deliberation and Consideration of Approval

ADJOURN

* Denotes items that have supporting documentation provided

ORDINANCE 2015-08-03

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE ENACTING SECTION 408 OF CITY CODE IN BIRCHWOOD
SEXUAL OFFENDERS AND SEXUAL PREDATORS**

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Birchwood Village hereby enacts Section 408 of City Code as follows:

408.010: FINDINGS AND INTENT:

408.020: DEFINITIONS:

408.030: RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS:

408.040: RENTING REAL PROPERTY; PENALTIES:

408.050: SEVERABILITY:

408.010: Findings 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 the 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 chapter 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.

408.020: 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:

DESIGNATED OFFENDER: 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 has been categorized as a level III sex offender under Minnesota statutes section 244.052 or successor statute.

DESIGNATED SEXUAL OFFENSE: A conviction, adjudication of delinquency, commitment under Minnesota statutes chapter 253B, or admission of guilt under oath without adjudication involving any of the following offenses:

Minnesota statutes sections: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor statutes; or a similar offense from another state.

PERMANENT RESIDENCE: A place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

TEMPORARY RESIDENCE: 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 (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

408.030: Residence Prohibition; Penalties; Exceptions

A. Prohibited Location of Residence: It is unlawful for any designated offender to establish a permanent residence or temporary residence: 1) within one thousand five hundred feet (1,500') of any school, licensed daycare center, park, or playground; or 2) any other public recreational facilities.

B. Prohibited Activity: It is unlawful for any designated offender to participate in a holiday event involving children less than eighteen (18) years of age, such as distributing candy or other items to children on Halloween. Holiday events in which the offender is the parent or guardian of the children involved, and no nonfamilial children are present, are exempt from this subsection.

C. Measurement of Distance:

1. 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 the nearest outer property line of a school, daycare center, park, playground, or other place where children regularly congregate.

2. The city clerk shall maintain an official map showing prohibited locations as defined by this chapter. The clerk shall update the map at least annually to reflect any changes in the location of prohibited zones.

D. Penalties: Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 408.040 of this code. Each day a person maintains a residence in violation of this chapter constitutes a separate violation.

E. Exceptions: A designated offender residing within a prohibited area as described in subsection A of this section does not commit a violation of this section if any of the following applies:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota statutes sections 243.166, 243.167, or successor statute, prior to adoption and publication of this section.
2. The person was a minor when he/she committed the offense and was not convicted as an adult.
3. The person is a minor.
4. The school or daycare center within one thousand five hundred feet (1,500') 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 Minnesota statutes section 243.166 or 243.167.
5. The residence is a property owned or leased by the Minnesota department of corrections.

408.040: Renting Real Properties; Penalties

A. 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 chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in subsection 408.030 A of this chapter.

B. A property owner's failure to comply with provisions of this section shall constitute a violation of this section.

C. 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.

408.050: 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 of any part thereof, other than the part held to be invalid.