

..Number

070237

..Version

PROPOSED SUBSTITUTE A

..Reference

..Sponsor

ALD. BOHL

..Title

A substitute ordinance relating to loitering regulations for sex offenders.

..Sections

106-53 cr

..Analysis

This ordinance makes it unlawful for a designated sexual offender to loiter within 250 feet of the following locations: schools, licensed day care centers, parks, recreational trails, playgrounds or any other places designated by the city as a place where children are known to congregate. Designated sexual offenders are defined as any person who is required to register under s. 301.45, Wis. Stats., Wisconsin Sex Offender Registry Program, for any offense against a child or any person who is required to register under s. 301.45, Wis. Stats., and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to s. 301.46(2) and (2m), Wis. Stats. This section does not apply to designated offenders if they are exercising their first amendment rights protected by the United States constitution or Wisconsin constitution, including freedom of speech, the free exercise of religion, and the right of assembly. Any person violating this section upon conviction shall forfeit not less than \$500 nor more than \$5,000.

This ordinance takes effect 60 days after passage and publication.

..Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 106-53 of the code is created to read:

**106-53. Loitering of Sex Offenders.**

1. DEFINITIONS. For the purposes of this section: a. "Child" shall mean a person under the age of 16 years.

b. "Designated offender" shall mean any person who is required to register under s. 301.45, Wis. Stats., for any offense against a child or any person who is required to register under s. 301.45, Wis. Stats., and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to s. 301.46(2) and (2m), Wis. Stats.

2. LOITERING. It shall be unlawful for any person defined as a designated offender pursuant to sub. 1-b, to loiter or prowl within 250 feet of the following

locations: a school, licensed day care center, park, recreational trail, playground or any other place designated by the city as a place where children are known to congregate; in a place, at a time, or a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct at the locations enumerated in this subsection. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

**3. EXCEPTIONS.** This section shall not apply where the actor was by his or her parent, guardian, or other adult person having his or her care, custody or control, or where that actor was exercising first amendment rights protected by the United States constitution or Wisconsin constitution, including freedom of speech, the free exercise of religion, and the right of assembly.

**4. PENALTY.** Any person violating this section upon conviction shall forfeit not less than \$500 nor more than \$5,000, and in default of payment thereof be confined in the county house of correction not more than 90 days.

Part 2. This ordinance takes effect 60 days after passage and publication.

..LRB

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date:\_\_\_\_\_

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date:\_\_\_\_\_

..Requestor

..Drafter  
LRB07100-4  
AEH  
7/27/2007