

**ORDINANCE NO. 2589**

**ORDINANCE TO AMEND SECTION 188-17 OF THE  
MUNICIPAL CODE OF THE CITY OF NEW BERLIN  
RELATING TO SEX OFFENDERS**

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The Common Council of the City of New Berlin do ordain as follows:

**SECTION I**

Section 188-17, B, concerning the definition of Child Safety Zone, of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- B. Definitions. As used in this Chapter and unless the context otherwise requires, the following terms shall have the meanings indicated:

**Child Safety Zone**

Any place within the City that is physically located within 500 feet of any Child Safety Location.

**SECTION II**

Section 188-17, B, Definition of Crime Against Children, of the Municipal Code of the City of New Berlin is hereby deleted and the following is substituted in its place:

- B. Definitions. As used in this Chapter and unless the context otherwise requires, the following terms shall have the meanings indicated:

**Designated Offender**

Any person who is required to register under Wisconsin Statute §301.45 for any sexual offense against a child or any person who is required to register under Wisconsin Statute §301.45 and who has been designed Special Bulletin Notification (SBN) Sex Offender pursuant to Wisconsin Statute §301.46(2) and (2m).

**SECTION III**

Section 188-17, B, Definition of Residence, of the Municipal Code of the City of New Berlin is hereby deleted and the following is substituted in its place:

- B. Definitions. As used in this Chapter and unless the context otherwise requires, the following terms shall have the meanings indicated:

**Permanent Residence**

Means a place where a person abides, lodges or resides for fourteen (14) or more consecutive days.

**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 place where the person routinely abides, lodges or resides for a period of fourteen (14) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

**SECTION IV**

Section 188-17, B, Definition of Sex Offender, of the Municipal Code of the City of New Berlin is hereby deleted; and the following Definition of Minor is hereby inserted:

- B. Definitions. As used in this Chapter and unless the context otherwise requires, the following terms shall have the meanings indicated:

**Minor**

Means a person under the age of seventeen (17).

**SECTION V**

Section 188-17, C, of the Municipal Code of the City of New Berlin is hereby repealed and recreated to read as follows:

- C. Residency Restrictions.

- (1) *Child Safety Zone Restriction.* Subject to the definitions in Sections 188-17, B, above and the exceptions set forth in Section 188-17, D, below, it is unlawful for a Designated Offender to establish a permanent residence or a temporary residence within a Child Safety Zone or any other place designated by the City as a place where Children are known to congregate.
  
- (2) *Measurement of Distance.* For purposes of determining the minimum distance separation, the restriction 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, licensed daycare center, park, trail, playground, place of worship or any other place designated by the City where children are known to congregate. The City Clerk shall maintain an official map showing prohibited locations as defined by this Ordinance. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as Child Safety Zones.

**SECTION VI**

Section 188-17, D, of the Municipal Code of the City of New Berlin is hereby repealed and recreated to read as follows:

D. Residency Restriction Exemptions.

- (1) A Designated Offender residing within a prohibited area as described above, 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 Wisconsin Statute §301.45 before the effective date of this Ordinance.
  - (b) The person is a minor is not required to register under Wisconsin Statute §301.45 or §301.46.
  - (c) The school, licensed daycare center, park, trail, playground, place of worship or any other place designated by the City as a place where children are known to congregate within 500 feet of the person's permanent or temporary residence was opened after the person established the permanent residence or temporary residence and registered the residence pursuant to Wisconsin Statute §301.45.

**SECTION VII**

Section 188-17, E, of the Municipal Code of the City of New Berlin is hereby repealed and recreated to read as follows:

E. Renting Real Property.

No person shall let or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by a person prohibited from establishing such permanent or temporary residence pursuant to this Ordinance if such place, structure or part thereof, or trailer or other locale is located within a prohibited Child Safety Zone as described hereunder.

**SECTION VIII**

Section 188-17, F, of the Municipal Code of the City of New Berlin is hereby repealed and recreated to read as follows:

F. Holiday Events and Public Gatherings:

- (1) It is unlawful for a Designated Offender to actively take part in any public holiday event involving Children where the distributing of candy or other items to Children takes place, including but not limited to holiday parades or similar gatherings, Halloween trick or treating, wearing a seasonable costume in a public place, or wearing any other costume reasonably expected to attract Children in a public place, or other similar activities that may, under the circumstances then present, tend to entice a Child to have contact with a Designated Offender.

- (2) Exception. This section does not apply to any event in which the Designated Offender is the parent or guardian of the Child(ren) involved, and the Designated Offender's Child(ren) are the only Child(ren) present.

#### **SECTION IX**

Section 188-17, G, of the Municipal Code of the City of New Berlin is hereby repealed and recreated, in part, to read as follows:

G. Loitering.

- (1) It shall be unlawful for any Designated Offender as defined in Subsection B above, to loiter or prowl within 500 feet of any school or school property, recreational trail, playground or park, any specialized school for children including, but not limited to, gymnastics academy, martial arts academy, dance academy, music school, public beach or public library in a place at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of children in the vicinity.

All other references under Subsection G to "sex offender" shall be replaced with "Designated Offender".

#### **SECTION X**

Section 188-17, I, Violations and Penalties, of the Municipal Code of the City of New Berlin is hereby amended to provide that the reference to Subsection (c) referring to 1,500 feet is hereby amended to 500 feet.

#### **SECTION XI**

Section 188-17, J, of the Municipal Code of the City of New Berlin is hereby created to read as follows:

- J. Sex Offender Residency Appeal Board. The above requirements of this Ordinance may be waived upon approval of the Sex Offender Residency Appeal Board through an appeal made by the affected party. Such appeal shall be made to the City Clerk's Office, who shall forward the request to the Sex Offender Residency Appeal Board, which shall receive reports from the Police Department as to the criminal background of the applicant and the nature and circumstances of the underlying offense requiring the registration under Wisconsin Statute §301.45 or §301.46. The Board shall convene and shall hear from the applicant, as well as the Police Department or others who would be affected by this decision. The Board shall consider the amount of time which has passed since the original offense was committed; whether there has been evidence of any re-offense; whether the applicant is employed and the duration of that employment; whether the applicant has shown remorse; whether there has been evidence of rehabilitation; and finally, any factors that would suggest a likelihood of re-offense.

The Sex Offender Residency Appeal Board shall consist of five (5) City residents appointed by the Mayor of the City and ratified by the Common Council. The members of the Sex Offender Residency Appeal Board shall serve in staggered, three year terms with the initial Board having two Members with three year terms; two Members with two year terms; and a single Member with a one year term. The Chief of Police will act as a resource to the Appeals Board and will attend its meetings.

#### SECTION XII

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

#### SECTION XIII

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

#### SECTION XIV

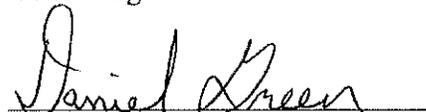
This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

**PASSED AND ADOPTED** by the Common Council this 28<sup>th</sup> day of June, 2017.

APPROVED:

  
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David Ament, Mayor

Countersigned:

  
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Daniel Green, City Clerk

