

## **ORDINANCE NO. 2017-1**

### **SEXUAL OFFENDER RESIDENCY RESTRICTIONS**

#### **31.01 SEXUAL OFFENDER RESIDENCY RESTRICTIONS**

##### **1. 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 that 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 ordinance not to impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village 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.
- c. To an uninformed unequipped public, Offenders (as defined herein below) present a clear and present danger to the health, safety and welfare of the residents of the Village of Potter. The Village Board for the Village of Potter has general authority to provide for law enforcement in the Village. Given the rural nature and limited law enforcement patrol presence in the Village, and in furtherance of the duty which accompanies the Village's authority to provide for law enforcement in the Village, the Village Board has determined that the Village will gather and make available to all residents Offender information that will allow Village residents the opportunity to protect themselves and their families and to assist law enforcement. The cost of both original and repeat Offender victimization to society is large, incalculable, but clearly exorbitant. It is not the intent of this Ordinance to impose a criminal penalty. Instead, the purpose of this Ordinance is to serve the Village's compelling interest in promoting, protecting and improving the health, safety and welfare of the citizens of the Village by gathering and disseminating Offender information to the public, providing the opportunity for a well informed public to protect itself, and providing a resource to local law enforcement authorities to help prevent the occurrence and reoccurrence of such criminal activity within the Village.
- d. The Village Board for the Village of Potter, Calumet County, Wisconsin has the authority to adopt this Ordinance pursuant to Sections 60.22(3), 60.23(17m), 60.56, 60.61, 61.34(1), and 66.0107, Wisconsin Statutes, including the power to deter, prevent and prosecute law violations and to act for the government and good order

of the Village and for the health, safety, welfare and convenience of the public, the Village hereby provides education and information to the Village's citizens and enhances the enforcement of the rule of law in the Village.

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

- a. Child means a person under the age of 16 for purposes of this ordinance.
- b. Designated Offender means any person who is required to register under Section 301.45, Wisconsin Statutes, for any sexual offense against a child or any person who is required to register under §301.45, Stats., and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to §301.46(2) and (2m), Stats.
- c. Minor means a person under the age of 17.
- d. Permanent Residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.
- e. Temporary Residence means a place where the person abides, lodges, or resides for a period of 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 non-consecutive days in any month and which is not the person's permanent residence.
- f. Offender Data Bank means the photos, documents and electronically stored information regarding an Offender.

3. SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE, PROHIBITION; PENALTIES; EXCEPTIONS.

- a. Prohibited Location of Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1,000 feet of any school, licensed day care center, park, trail, playground, place of worship, United States Post Office or any other place designated by the Village as a place where children are known to congregate. That attached hereto is a map of the existing village limits of the Village of Potter as of the time of the passage of this ordinance. That map is incorporated herein by reference and made a part hereof completely. That map designates the area of the park, a church which is a place of worship and where religious education is held and the United States Post office are outlined in red. This identifies the location of the protected areas and the areas which make it unlawful for a designated offender to establish a permanent residence or temporary residence to an area 1,000 feet from any of these designated areas.

- b. Prohibited Activity. It is unlawful for any designated offender to participate in a holiday event involving children under 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. Participation is to be defined as actively taking part in the event.
- c. Measurement of Distance.
  - i. 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, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village where children are known to congregate.
  - ii. The Village Clerk shall maintain an official map showing prohibited locations as defined by this ordinance. The Clerk shall update the map as needed to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.
- d. Penalties. A person who violates this section shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation. The Village may also seek equitable relief.
- e. Exceptions. A designated offender residing within a prohibited area as described in Section 3(a) does not commit a violation of this section if any of the following apply:
  - i. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to §301.45, Stats., before the effective date of this ordinance.
  - ii. The person is a minor and is not required to register under §301.45 or §301.46, Stats.
  - iii. The school, licensed day care center, park, trail, playground, place of worship, and United States Post Office, or any other place designated by the Village as a place where children are known to congregate within 1,000 feet 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 §301.45, Stats.

4. **PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; 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 ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section 3(a).
- b. A property owner's failure to comply with provision of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions in Section (3)(d) as provided in this ordinance.

5. **APPEAL**

- a. Sex Offender Residence Board. The above requirements may be waived upon approval of the Sex Offender Residence Board through appeal by the affected party. Such appeal shall be made to the Village Clerk who shall forward the request to the Sex Offender Residence Board, which shall be the Village Board for the Village of Potter, which also shall receive reports from the Sheriff's Department on such appeal. The Board shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Board shall forward its decision in writing to the Village of Potter Inspection Division and/or the Calumet County Sheriff for their information and action. A written copy of the decision shall be provided to the affected party.
- b. The Sex Offender Residence Board shall be the Village Board of the Village of Potter. The initial board shall be a three member board and vary as the Village Board varies. In other words, the Village Board shall be the Sex Offender Residence Board and the members of the Village Board shall constitute the Sex Offender Residence Board.

**31.02 PROHIBITED ACTIVITIES BY RESTRICTED OFFENDERS**

1. It is unlawful for a Restricted Offender to engage in a Prohibited Activity.
2. Upon determining that a Restricted Offender has engaged in a Prohibited Activity, the proper law enforcement authority(ies) shall be notified and presented with evidence of the offense.
3. In the event of a violation of the above Section 3 prohibition, the Restricted Offender shall be punished by a forfeiture of not less than \$50.00 and not more than \$500.00. Each unlawful Prohibited Activity engaged in by the Restricted Offender constitutes a separate violation.

### 31.03 PENALTIES

Unless otherwise specifically provided, any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder shall be subject to a forfeiture of not less than \$50.00 and not more than \$500.00. Each instance of such prohibited conduct constitutes a separate offense.

### 31.04 SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application to any person or circumstance is held invalid, the remainder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

### 31.05 EFFECTIVE DATE

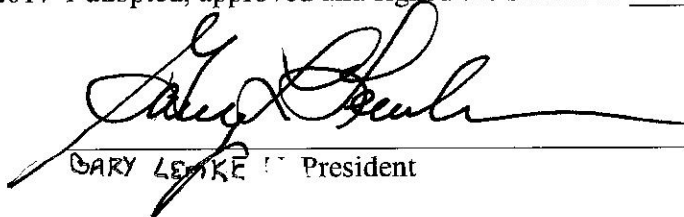
This ordinance shall take effect upon passage and publication as required by law.

Ordinance No. 2017-1 introduced and its adoption moved by Gary Lemke; and seconded by Rob Schaefer.

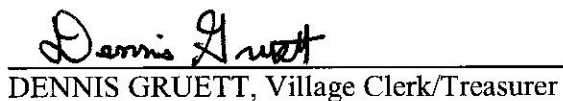
Upon a roll call of votes, thereon, the results were as follows:

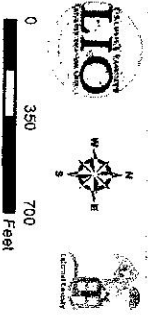
Votes Cast	<u>2</u>
Votes Aye	<u>2</u>
Votes Nay	<u>0</u>

The President declared Ordinance No. 2017-1 adopted, approved and signed the same this 12th day of September, 2017.

  
GARY LEMKE, President

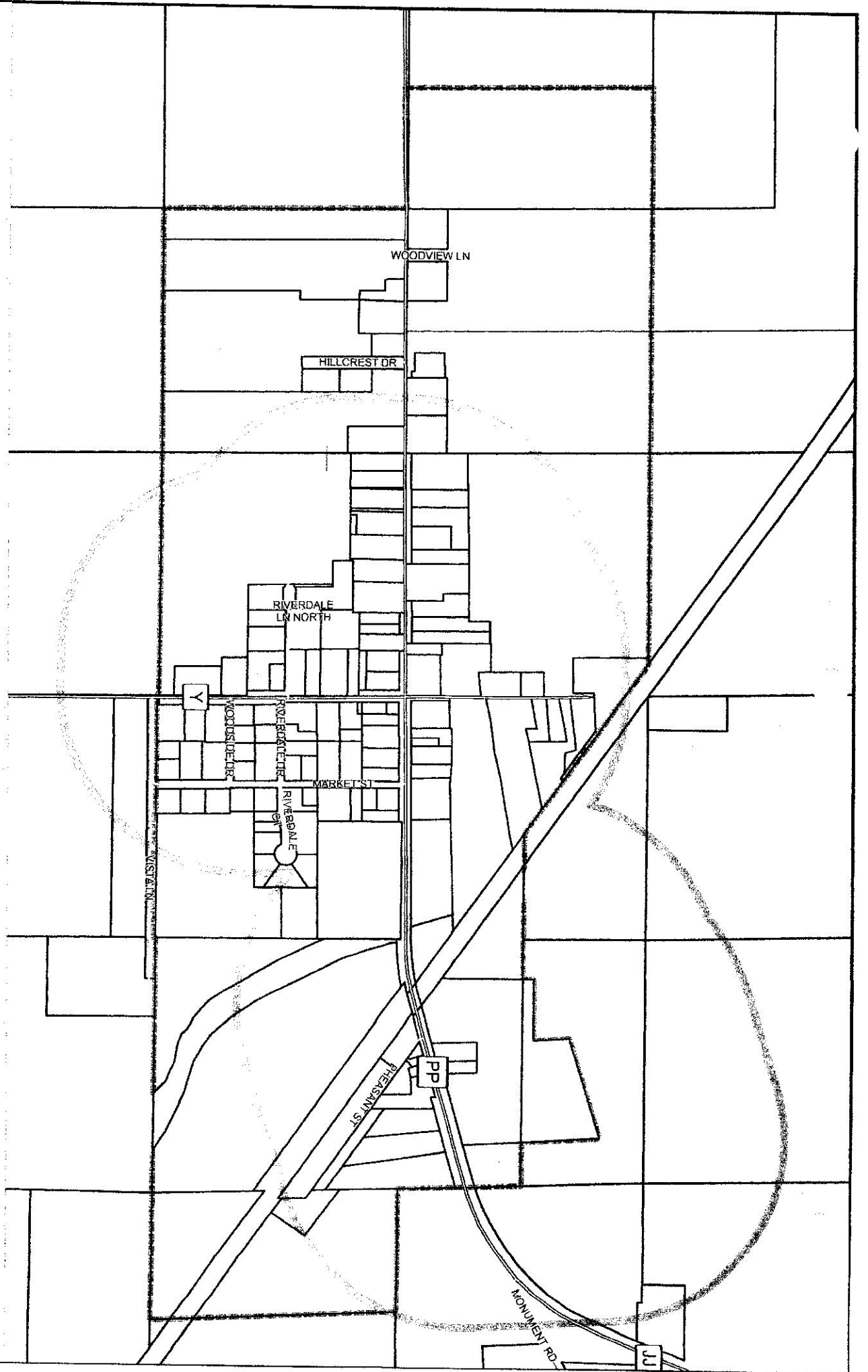
COUNTERSIGNED:

  
DENNIS GRUETT, Village Clerk/Treasurer



- ☒ County Highways
- ☒ Local Roads
- ☒ Municipal Streets
- ☒ Parcel Boundary
- ☐ River
- ☐ Village Boundary
- ☐ Parks and Public Lands
- ☐ 1000ft Offender Buffer
- ☐ Restricted Parcels

Calumet County, Wisconsin



**Disclaimer:**  
 This map is neither a legally recorded map nor a survey and is not intended to be used as such. It is provided for informational purposes only and does not constitute a warranty of any kind. The map is based on the best available information and is not a guarantee of accuracy. The map is not a substitute for a professional survey or other legal document. The map is provided as a service to the public and is not intended to be used for any other purpose. The map is not a substitute for a professional survey or other legal document. The map is provided as a service to the public and is not intended to be used for any other purpose.