**ORDINANCE #87**

**PREDATORY OFFENDERS-RESIDENCY RESTRICTIONS, SAFETY ZONES, AND PROHIBITED ACTIVITY**

1. **PURPOSE AND INTENT**. The City of Underwood find and declares that predatory offenders are likely to use physical violence and to repeat their offenses, and most predatory 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 predatory offender victimization to society at large, while incalculable, unmistakably steep. It is the intent of this ordinance to serve the City’s compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City of Underwood by imposing residency restrictions upon predatory offenders and creating safety zones around locations where vulnerable populations regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence and wherein access by predatory offenders shall be restricted and excluded.
2. **DEFINITIONS**. For the purpose of this Section, the following definitions shall apply unless the context clearly indicated or requires a different meaning.

**CHILDREN*.*** Two or more persons under the age 18 and also includes individuals under age 21 who are in foster care.

**CARE FACILITY**. Any facility, public or private, licensed by the State of Minnesota or Otter Tail County, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation or developmental guidance on a regular basis, for periods less than 24 hours per day, in a place other than the person’s own home.

**DESIGNATED PREDATORY OFFENDER**. Any person who has been categorized as a Level II or 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 includes a high risk of re-offense.

**FACILITIES FOR CHILDREN**. All public parks, parkways, park facilities, parkland, public or private schools, designated public school bus stops, libraries, group homes, foster homes, day care and child care facilities, public recreation centers, non-profit or commercial recreation centers, public or private playgrounds, public or commercial swimming pools, public beaches, youth centers, athletic fields used by children, crisis center or shelter, care facilities for children, skate park or rink, movie theatres, bowling alley, facilities for children’s clubs e.g. scouting, public recreational areas and trails including conservation areas, jogging trails, hiking trails, walking trails, bicycle trails, Offices for Child Protective Services, place of assembly, and specialized schools for children including, but not limited to, tutoring, gymnastics, dance, and music schools.

**PERMANENT RESIDENCE**. A place where a person abides, lodges, or resides for 14 or more consecutive days. An ownership interest by the person in such residence is not required.

**PLACE OF ASSEMBLY**. A place of assembly, synagogue, temple, mosque or other facility that is used for prayer by persons of similar beliefs or a special purpose building that is designed or particularly adapted for the primary use of conducting, on a regular basis, religious services and associated accessory uses by a religious congregation.

**PUBLIC OR PRIVATE SCHOOLS**. Establishments primarily engaged in providing instructional services to elementary or secondary students with a curriculum that complies with the state regulations, including public schools governed by an elected school board, private schools and charter schools.

**TEMPORARY RESIDENCE**. A place where a 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 nonconsecutive days in any month, and which is not the person’s permanent residence.

1. **PROHIBITION; PENALTIES; EXCEPTIONS.**
2. **Prohibited location of residence.** It is unlawful for any designated predatory offender to establish a permanent residence or temporary residence within 2,000 feet of any facility for children or care facility.
3. **Prohibition present in safety zone.**It is unlawful for any designated predatory offender to be present within 100 feet of any facility for children or care facility.
4. **Prohibited Activity.**It is unlawful for any designated predatory offender to participate in a holiday event involving children, such as distributing candy or other items to children on Halloween, wearing a Santa Clause costume on or proceeding Christmas, or wearing an Easter Bunny costume on or proceeding 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.
5. **Measurement of distance***.* For purposes of determining the minimum distance separation, the requirement shall be measured by the following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of the facility for children or care facility.
6. **Violations.** A designated predatory offender who violates this ordinance shall be deemed guilty of a misdemeanor. Each day a designated predatory offender maintains residence in violation of this ordinance constitutes a separate violation.
7. **Exceptions.** A designated predatory offender residing within a prohibited location as described herein does not commit a violation of this ordinance if any of the following apply:
   1. Thedesignated predatory offender established the permanent residence and reported and registered the residence pursuant to Minnesota Statutes section 243.166 and 243.167, or a successor statute, prior to March 6, 2017. Time spent in the Otter Tail County Jail, Psychiatric or Chemical Dependency Treatment Center, Hospital, Half-way House, or other care facility shall not constitute prior permanent residence.
   2. The designated predatory offender was a minor when he/she committed the offense and was not convicted as an adult.
   3. The designated predatory offender is a minor.
   4. The facility for children or care facility within 2,000 feet of the designated predatory offender’s permanent residence was opened after the designated predatory offender established the permanent residence and reported and registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167 or a successor statute.
   5. The residence is the property purchased, leased, or contracted with and licensed by the State of Minnesota as a Psychiatric Care Hospital or Chemical Dependency Treatment facility which has onsite staffing 24 hours a day, as well as the Otter Tail County Jail.
8. **Official Map of Prohibited locations.**The City Administrator shall maintain an official map showing prohibited locations of residence as defined by the Ordinance. The City Administrator shall review annually and if appropriate update the map to reflect any changes in the prohibited locations. The map shall not be deemed conclusive or all-encompassing since some prohibited locations change from time to time including but not limited other places where children are known to congregate.
9. **RESTRICTIONS RELATING TO RENTAL PROPERTY; PENALTIES.**
10. It is unlawful for a property owner 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 Section if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location in subdivision C (1) above.
11. A property owner violating this subdivision shall be guilty of a petty misdemeanor. Each day a property owner violates this subdivision constitutes a separate violation.
12. If a property owner discovers or is informed that a tenant is a designated predatory 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 without further liability to the offender.
13. **SEVERABILITY**. Should any section, subdivision, clause or other provision of this Section be held invalid by any court of competent jurisdiction, such decision shall not affect the validity of this Section as a whole, or of any part thereof, other than the part held to be invalid.

Effective Date. The effective date of this ordinance shall be the 22nd day of March 2017.

Adopted by the City Council of the City of Underwood, County of Otter Tail and State of Minnesota on the 6th day of March 2017 and effective upon publication of title & summary.

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Mayor Paul Hoff City Clerk Anna Kiser

Date Published Battle Lake Review March 22, 2017