

ORDINANCE NO. 3056

An Ordinance Establishing an Appeal Process Associated with Residency Restrictions as Set Forth in § 409-6, “Residency of Sex Offenders; Loitering in Child Safety Zones.”

At a regular meeting of the Village Board of the Village of Shorewood, Milwaukee County, held on this 17th day of May 2023, a quorum being present and a majority of the Board voting therefore, said Board finds:

WHEREAS, the Village of Shorewood currently has in its Municipal Code § 409-6, titled “Residency of sex offenders; loitering in child safety zones”; and

WHEREAS, federal courts addressed the constitutionality of certain elements of similar provisions throughout the United States in recent years; and

WHEREAS, the aforementioned decisions support inclusion of an appeals process that guarantees due process to those affected by the regulations contained in Municipal Code § 409-6;

Now, therefore, the Village Board does ordain as follows:

SECTION 1

That Subsection E, “Exceptions to residency requirements upon appeal,” of Section 6, “Residency of sex offenders; loitering in child safety zones,” of Chapter 409, “Peace and Good Order,” is hereby created to read as follows:

E. Exceptions to residency requirements upon appeal.

- 1) Any offender as defined herein whose residence in the Village would otherwise be prohibited by the provisions of this section may appeal the denial of a particular residency location to the Village Board as follows:
 - a. The appellant shall first submit to the Public Safety Committee any materials they wish to have considered, including reference to any reasons, facts, evidence, or arguments in support of such appeal, demonstrating why the appellant should be granted an exception to the residency restrictions in this section.
 - b. The Chief of Police or their designate shall provide a recommendation concerning the grant to denial of the appeal to the Public Safety Committee and provide a copy of that recommendation to the person making the appeal hereunder and the Village Board.
 - c. The Public Safety Committee shall evaluate the materials submitted by the appellant, the recommendation of the Chief of Police or designate, and make a

recommendation to the Village Board on whether to grant the appeal or not, considering the factors enumerated in subsection "d" 1-11 herein. The appellant shall be given notice of the Public Safety Committee meeting at which the appeal is to be evaluated and shall have the opportunity to appear and address the Committee.

- d. Upon receipt of the recommendation from the Public Safety Committee and the Police Chief or designate, the Village Board shall conduct a hearing and consider the following factors:
 1. The nature of the offense that led to the individual being designated an "offender" as defined in this section.
 2. The age of the offense.
 3. Any recommendation of the individual's probation officer or parole officer.
 4. The recommendation of the police department.
 5. The recommendation of the Public Safety Committee.
 6. The treatment or rehabilitation status of defendant.
 7. The character of the surrounding area relative the character of defendant, treatment, or the prior offense or offenses.
 8. The recommendation of any treating practitioner.
 9. Any proposals for safety assurances of defendant.
 10. The conditions to be placed on any exception or variance from the requirements of the Ordinance.
 11. Any other matter considered relevant to the determination of the Board.
- e. The person seeking the exception to the foregoing residency restriction shall be given notice of the Village Board hearing and shall have the opportunity to appear and present any reasons, facts, evidence, or arguments in support of such appeal.
- f. Any person having an interest in the outcome of the proceeding may appear and be heard by the Board, including but not limited to a representative of the Public Safety Committee, the Chief of Police or their designate, and prospective neighbors to the proposed location.
- g. The decision of the Board shall be final and is subject to certiorari review by the Circuit Court of Milwaukee County. A transcript of the proceedings by a certified court reporter shall be created and made available to the appellant or any requesting party for the actual and direct costs of creating the transcript. The Village clerk shall maintain the record of the proceedings, and make such transcript, and any other matters placed on file by the Board, available as the record on appeal.

SECTION 2

That if any subsection, section, or portions of this ordinance or the application thereof to any persons as enacted hereunder is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent

provision and such holdings shall not affect the validity of the remaining portions hereof and the validity of the ordinance in all other respects shall not be affected thereby.

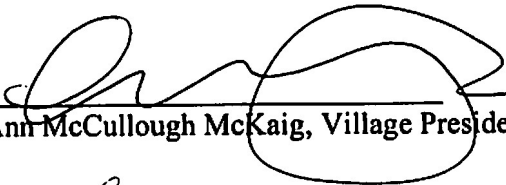
SECTION 3

That all ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby to such extent repealed.

SECTION 4

This ordinance shall be in full force and effect after its passage and posting as provided by law.

PASSED AND ADOPTED by the Village Board of the Village of Shorewood, Milwaukee County, Wisconsin, this 17th day of May 2023.


Ann McCullough McKaig, Village President

Countersigned:


Toya Harrell, Village Clerk