

## CHAPTER 9

### SEX OFFENDER RESIDENCY AND ACTIVITY RESTRICTIONS

#### 9.01 FINDINGS AND INTENT.

- (a) This section is a non-punitive civil regulatory measure aimed at protecting the public health, safety and welfare of the children and citizens of the Town of Lisbon from the risk that convicted sex offenders may re-offend in locations close to their residences. The Town Board has closely considered this question and has made numerous findings and expressions of intent within the preamble to the ordinance which adopts this Code section which are incorporated herein by reference. The Town Board finds and declares that sex offenders who prey upon children are a serious threat to public safety and it is necessary for the Town to enact reasonable measures to reduce the opportunity and minimize the risk of re-offense by protecting children where they congregate or play in addition to the protections afforded by State law.
- (b) It is the intent of this ordinance not to impose a criminal penalty but, instead, to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Town by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from establishing temporary or permanent residence or loitering. The Town Board has closely considered this issue and has made numerous findings and expressions of intent within the preamble to the ordinance, which is incorporated herein by reference.

#### 9.02 DEFINITIONS. For purposes of this section:

- (a) Child means a person under the age of 18 years.
- (b) Children, unless otherwise indicated, means two or more persons under the age of 18.
- (c) Child Safety Zone shall mean any real property that supports or upon which there exists any facility used for or that supports a facility such as the facilities listed in subsections (3)(a) and (b) of this section.
- (d) Sex offender shall mean:
  - 1. Any person who is required to register under §301.45, Wis. Stats., for any offense against a child or any person who is required to register under §301.45, Wis. Stats., and who is subject to the Special Bulletin Notification process set forth in §301.46(2) and (2m), Wis. Stats.;
  - 2. Any person subject to the sex crimes commitment provisions of §975.06, Wis. Stats.;
  - 3. Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under §971.17(1j), Wis. Stats.
- (e) Permanent residence shall mean a place where a person abides, lodges or resides for 14 or more consecutive days.
- (f) Temporary residence shall mean 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 place where the person routinely abides, lodges or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

**9.03 RESIDENCY RESTRICTIONS.** An offender shall not establish a residence in any location on a parcel of which, in whole or in part, is within 1,500 feet of the real property comprising any of the following:

- (a) Any facility for children (which means a public or private school, a group home as defined in §48.02(7), Wis. Stats.; a residential care center for children and youth as defined in §48.02(15d), Wis. Stats.; a shelter care facility as defined in §48.02(17), Wis. Stats.; a foster home as defined in §48.02(6), Wis. Stats.; a treatment foster home as defined in §48.02(17q), Wis. Stats.; a day care center licensed under §48.65, Wis. Stats.; a day care program established under §120.13(14), Wis. Stats.; a day care provider certified under §48.651, Wis. Stats.; or a youth center as defined in §961.01(22), Wis. Stats.; and/or
- (b) Any facility used for:
  - 1. A public park, parkway, parkland, park facility;
  - 2. A public swimming pool or swimming area;
  - 3. A public library;
  - 4. A recreational trail;
  - 5. A public playground;
  - 6. A school for children;
  - 7. Athletic fields used by children;
  - 8. A day care center;
  - 9. Any specialized school for children including, but not limited to, a gymnastics academy, dance academy or music school.

The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest real property boundary line of the applicable above enumerated use(s).

- (c) Measurement of Distance. For the 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 the nearest outer property line of any uses enumerated in subsections (3)(a) and (b) where children regularly gather or licensed day care center or licensed group foster home.
- (d) Map. A map depicting the above resulting residency restriction distances shall be adopted by resolution of the Town Board, which map may be amended from time to time and is on file in the office of the Town Clerk and the Waukesha County Sheriff's Department for public inspection.
- (e) It is unlawful to let or rent any place, structure or part thereof with the knowledge that it will be used as a residence by a sex offender if such place, structure or part thereof is located within 1,000 feet of any of the uses enumerated in subsections (3)(a) and (b) above. A person letting or renting a place or structure shall be deemed to have such knowledge if, at least 10 days prior to letting or renting the place, the sex offender's name appears on the Wisconsin

Department of Corrections sex offender registry and the person letting or renting the place knew the sex offender would be residing at the subject place or structure. (Am. #17-0928)

**9.04 PROHIBITION.** It shall be unlawful for any sex offender to enter into, congregate, loiter, wander, stroll, stand or play in or near a Child Safety Zone as defined in subsection (2)(b) under circumstances that warrant alarm for the safety of persons 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 police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or 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 to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or 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 police officer or peace officer at the time, would have dispelled the alarm.

**9.05 PARTICIPATION IN HALLOWEEN ACTIVITIES INVOLVING CHILDREN.** It shall be unlawful for any offender, as defined in this chapter, to participate either directly or indirectly in distribution of candy or any other items to children on Halloween. Registered offenders shall remain indoors or shall remain away from their residence a minimum of one-half hour before locally scheduled trick-or-treat event(s) to one-half hour after locally scheduled trick-or-treat event(s). Registered offenders or other occupants of their residence shall not give any indication to the public that they are participating in trick-or-treat activities.

**9.06 RESIDENCY RESTRICTION EXCEPTIONS.** A sex offender residing within a prohibited area as described in subsection (3) above does not commit a violation of this section if any of the following apply:

- (a) The person established a permanent residence or temporary residence and reported and registered the residence pursuant to §301.45, Wis. Stats., before the effective date of this section.
- (b) The person was under 17 years of age and is not required to register under §301.45 or §301.46, Wis. Stats.
- (c) The uses enumerated in subsections (3)(a) and (b) where children regularly gather within 1,500 feet of the person's permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to §301.45, Wis. Stats.
- (d) The person is required to serve a sentence at a jail, juvenile facility or other correctional institution or facility.
- (e) The person is a minor or ward under guardianship.

**9.07 ORIGINAL DOMICILE RESTRICTION.**

- (a) In addition to the residence restrictions set forth herein and subject to subsection (4) above, no sex offender shall be permitted to reside in the Town of Lisbon unless such person was domiciled in the Town of Lisbon at the time of the most recent offense resulting in the person's

most recent conviction, commitment or placement as a sex offender as set forth in subsections (2)(c)1., 2. and 3. above. "Domicile" shall mean an individual's fixed and permanent home where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return, except that no individual may have more than one domicile at any time. Domicile is not a residence for any special or temporary purpose. A sex offender does not violate this subsection if the Residence Board has granted an exemption.

**(b) PETITION FOR EXEMPTION.**

1. A sex offender may seek an exemption from subsection (7)(a) by petitioning to the Residence Board.
2. The Town Board shall be, and shall have all of the powers and duties of the Residence Board described herein.
3. The Residence Board shall approve an official petition form. The sex offender seeking an exemption must complete the petition and submit it to the Town Clerk who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Town's interest in promoting, protecting and improving the health, safety and welfare of the community. Applicable factors for the Residence Board's consideration shall include, but are not limited to:
  - a. Nature of the offense that resulted in sex offender status.
  - b. Date of offense.
  - c. Age at time of offense.
  - d. Recommendation of probation or parole officer.
  - e. Recommendation of Waukesha County Sheriff's Department.
  - f. Recommendation of any treating practitioner.
  - g. Counseling, treatment and rehabilitation status of sex offender.
  - h. Remorse of sex offender.
  - i. Duration of time since sex offender's incarceration.
  - j. Support network of sex offender.
  - k. Relationship of sex offender and victim(s).
  - l. Presence or use of force in offense(s).
  - m. Adherence to terms of probation or parole.
  - n. Proposals for safety assurances of sex offender.
  - o. Conditions to be placed on any exception from the requirements of this section.
4. The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of an appeal. A written copy of the decision shall be provided to the sex offender and the Waukesha County Sheriff's Department.

**9.08 PENALTY.**

- (a) A person who violates provisions of subsections (3) or (7) shall be subject to a forfeiture of not

less than \$300.00 and no more than \$1,000.00 for each violation.

- (b) Any person violating subsection (4) or (5) of this section shall forfeit not less than \$1,000.00 and no more than \$2,000.00 for each violation.
- (c) A person who violates provisions of Section 7 of this Ordinance shall, upon conviction thereof, be subject to a forfeiture of not less than \$500.00 and no more than \$1,000.00 plus the costs of prosecution for each violation.
- (d) Each day of violation of this Ordinance shall constitute a separate offense.
- (e) Violation of this Ordinance shall constitute a public nuisance, which, in addition to any monetary forfeiture imposed shall be subject to action by the Town to abate and enjoin such nuisance.

**9.09 EXCEPTION FOR PLACEMENTS UNDER CH. 980, WIS. STATS.** To the extent required by §980.135, Wis. Stats., and notwithstanding the foregoing provisions of this chapter, the Town of Lisbon hereby exempts and may not enforce any portion thereof that restricts or prohibits a sex offender from residing at a certain location or that restricts or prohibits a person from providing housing to a sex offender against an individual who is released under §980.08, Wis. Stats., or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Ch. 980, Wis. Stats., the individual is residing where he or she is ordered to reside under §980.08, Wis. Stats., and the individual is in compliance with all court orders issued under Ch. 980, Wis. Stats.

**9.10 SEVERABILITY.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**9.11 CONTINUATION OF EXISTING PROVISIONS.** The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

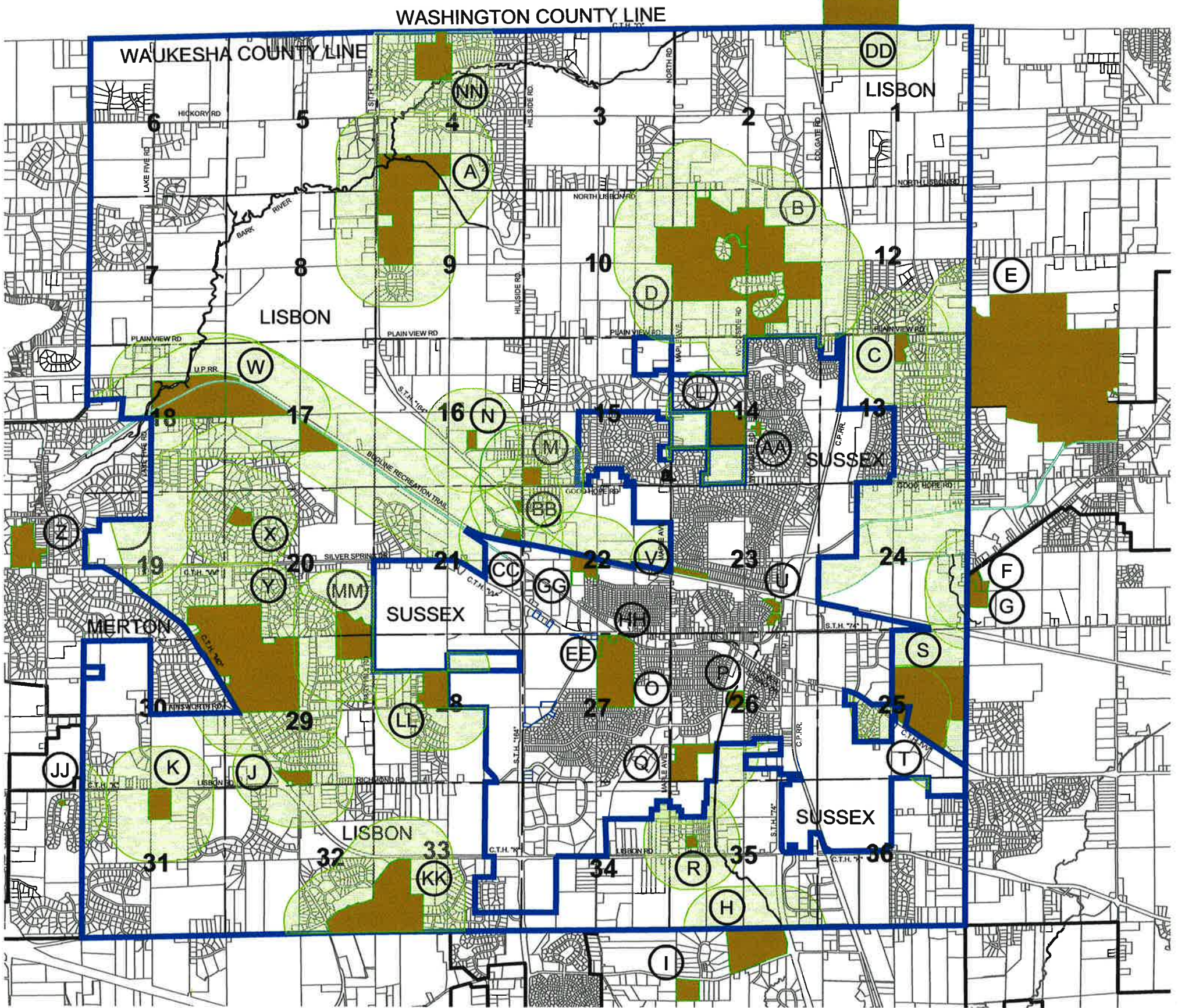
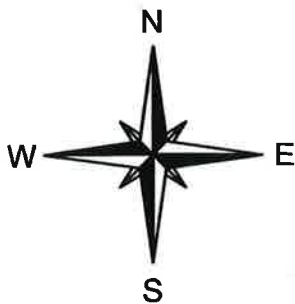
REVISIONS TO MASTER CODE			
SECTION	R&R / CREATED	ORD WHICH UPDATED IT	UPDATED ON DATE
Chapter 9	09/24/2018	11-18	09/26/2018



# EXHIBIT - A

## TOWN OF LISBON - CHAPTER 9 ORDINANCE 07-15

### SEXUAL OFFENDER RESIDENCY RESTRICTIONS; CHILD SAFETY ZONES



**CHILD SAFETY ZONES**

- A - SONGBIRD HILLS GOLF COURSE
- B - TOWN HALL PARK ( LISBON )
- C - STONE FAMILY PARK
- D - THE FAIRWAYS OF WOODSIDE GOLF COURSE
- E - MENOMONEE PARK - WAUKESHA COUNTY
- F - WILLOW SPRINGS LEARNING CENTER
- G - ST. JAMES JUNEAU ACADEMY
- H - PEWAUKEE SPORTS COMPLEX
- I - PALMER PARK
- J - RICHMOND SCHOOL
- K - GOETZ DRIVING RANGE
- L - WOODSIDE ELEMENTARY SCHOOL
- M - TOWN GARAGE PARK
- N - GOSPEL FELLOWSHIP OF SUSSEX
- O - VILLAGE PARK ( SUSSEX )
- P - SPRING GREEN PARK
- Q - ARMORY PARK
- R - STONEY HALQUIST PARK
- S - TEMPLETON MIDDLE SCHOOL - HAMILTON HIGH SCHOOL
- T - CHRIST OUR SAVIOR LUTHERAN CHURCH
- U - MADELINE PARK
- V - MAPLEWAY PARK
- W - LISBON COMMUNITY PARK
- X - LISBON OAKS PARK
- Y - IRONWOOD GOLF COURSE
- Z - MERTON INTERMEDIATE SCHOOL
- AA - RIDGEVIEW PARK
- BB - LISBON UNITED PRESBYTERIAN CHURCH
- CC - MUSIC LESSONS
- DD - BASSE'S TASTE OF COUNTRY
- EE - FAITH EVANGELICAL LUTHERAN CHURCH
- GG - GREGAN PARK
- HH - WEE WELCOME INN CHILD CARE CENTER
- JJ - WINDRUSH SUBD. - PLAYGROUND
- KK - RYAN PARK - WAUKESHA COUNTY
- LL - SHERWOOD FOREST BOWMEN
- MM - AUSBLICK SKI AREA
- NN - RIVER GLEN NEIGHBORHOOD PARK

**LEGEND**

- PROPERTY SUBJECT TO RESIDENTIAL RESTRICTION FOR SEX OFFENDER
- LIMITS OF 1500 FT RESTRICTION - NO PERMANENT OR TEMPORARY RESIDENCE PERMITTED
- LISBON MUNICIPAL BOUNDARY

TOWN 8 NORTH RANGE 19 EAST

**JAHNKE & JAHNKE ASSOCIATES INC.**  
 PLANNERS & PROFESSIONAL ENGINEERS  
 711 W. MORELAND BLVD.-WAUKESHA, WI. 53188

SCALE: 1"=4000'	DATE: JANUARY 22, 2016
DRAWN BY: B.R. / D.F.    CHECKED BY: J.R.S.	FILE NO.: LISBON 319
BOOK NO.:	JOB: LSBT0091
SHEET 1 OF 1	

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