

CHAPTER 316

Town of Yarmouth Sex Offender Residency Restriction Ordinance

Town of Yarmouth, Maine
Enacted 11/18/16

SEX OFFENDERS RESIDENCY RESTRICTION

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SEX OFFENDERS RESIDENCY RESTRICTION ORDINANCE

ARTICLE I

TITLE

This Chapter shall be known as the "Town of Yarmouth Sex Offender Residency Restriction Ordinance.

ARTICLE II

FINDINGS AND PURPOSE

The Town promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The Town recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. § 11201 et seq., as may be amended from time to time, the Town finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this chapter is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

ARTICLE III

AUTHORITY

This chapter is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time.

ARTICLE IV

DEFINITIONS

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

DESIGNATED SEX OFFENDERS- Persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction.

RESIDENCE- The temporary or permanent occupation or use of a place, including, but not limited to, a domicile, for the purpose of living, residing or dwelling. The residence shall be deemed to include all the land or property within the limits of the property parcel on which the residence is situated.

RESTRICTED PROPERTY- The real property consisting of the entire property parcel on which a public or private elementary, middle or secondary school is located.

SETBACK- A seven-hundred-fifty-foot buffer surrounding restricted property.

ARTICLE V

RESTRICTED PROPERTY MAP; RESTRICTIONS

(a) The Planning Department, with the assistance of the Police Department, shall prepare and file with the Town Clerk and Police Department an official map showing restricted property, as defined by this chapter. The map is hereby incorporated herein and made a part of this chapter.^[1] The Planning Department, with the assistance of the Police Department, shall by July 1 of each year recommend updates to the map to the Town Council to reflect any changes in the locations of any restricted property and setbacks. The Town Council may amend the restricted property official map by Town Council order, and any amended official map shall be filed with the Town Clerk and the Police Department. In the event of any conflict between the map and the text of this ordinance, the ordinance text shall control.

^[1] Editor's Note: Said map is on file in the Town Clerk's office.

(b) No designated sex offender shall reside within the setback of any restricted property. Licensed nursing homes or other licensed medical facilities are excluded from this ordinance so necessary medical care can be provided. This ordinance shall also not apply to the property identified on Town of Yarmouth Tax Maps as Map 41, Lot 117 as of May 23, 2016, so long as such property is used as senior housing.

ARTICLE VI

EXCEPTIONS

A designated sex offender maintaining a residence within the setback of a restricted property is not in violation of this chapter if the residence was established and consistently maintained as a

residence prior to the date of adoption of this chapter. A designated sex offender is not in violation of this chapter if the restricted property is created, moved or enlarged and such creation, movement or enlargement results in a designated sex offender residing within the setback of a restricted property, as long as the residence was in place and consistently maintained prior thereto.

ARTICLE VII

VIOLATIONS AND PENALTIES

- (a) A designated sex offender who, 30 days after actual receipt of written notice sent by regular mail or hand delivered from the Town acting by and through its Police Department, is in violation of this chapter shall be subject to an action brought by the Town to enforce the requirements of this chapter. The Town may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to state and local laws, including, without limitation, declaratory and injunctive relief.
- (b) The Town also may seek a penalty in the minimum amount of \$500 per day. Each day of violation shall constitute a separate violation. In the event the Town is the prevailing party in any action under this chapter, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town. All civil penalties shall inure to the benefit of the Town of Yarmouth.

ARTICLE VII

SEVERABILITY

If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.