

TOWN OF RUTLAND CHILD SAFETY ORDINANCE

I. AUTHORITY, PURPOSE, AND FINDINGS

A. The Town of Rutland hereby promulgates the following ordinance pursuant to 24 V.S.A. § 2291(14) in order to restrict the residency of sex offenders near schools, recreation facilities, and daycares, as well as the presence of sex offenders in these facilities. This Ordinance is a civil ordinance enacted pursuant to 24 V.S.A. § 1974a.

B. The Selectboard of the Town of Rutland finds that:

1. children are among the most vulnerable members of society and are susceptible to sexual abuse when they are out of their parents' protection at or near schools, recreation facilities and licensed day care facilities;
2. the public health, safety and welfare requires that children be shielded from sexual abuse;
3. persons convicted of sexual offenses against a minor carry a substantial risk of committing another sexual offense;
4. human behavior is inherently unpredictable and precise statistical data is not available to enable the accurate determination of whether a particular sexual offender will reoffend and under what circumstances;
5. the residency and/or presence of a sex offender near a school, recreation facility, or daycare presents the sex offender with opportunity and temptation to reoffend and therefore increases the risk of harm to children
6. the residency of a sex offender in proximity to a school, recreation facility, or daycare and the presence of sex offenders at any of these facilities at unauthorized times constitute public nuisances;
7. a reduction of the opportunity and temptation of a sexual offender to reoffend will tend to decrease the likelihood that a sex offender will commit a sex offense against a child; and
8. reducing sex offender's access to children will decrease the likelihood that a sex offender will reoffend and will thereby promote the public health, safety and welfare by enhancing the health, safety and welfare of children within the Town of Rutland.

II. DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the respective meanings ascribed to them.

- A. "Established Residence" means the residence or any other living accommodations, permanent or temporary on a property located in whole or in part in the Town of Rutland at which a sex offender resides as of the effective date of this Ordinance.
- B. "Licensed Daycare" means any daycare facility and that is registered with the appropriate state agency. "Licensed daycare" means any daycare facility and that is registered with the appropriate state agency.
- C. "Protected Property" means a school, recreation facility, or licensed daycare as defined by this Ordinance and located in whole or in part in the Town of Rutland.
- D. "Protection Zone" means the area included within a boundary extending one thousand (1,000) feet out from the property lines of a protected property.
- E. "Recreation facility" means a park, playground, trail, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field or sports facility, including the parking area and land surrounding any of the aforementioned facilities, which is owned by or under the jurisdiction of any department, agency or authority of the Town of Rutland.
- F. "School" means a licensed or accredited public, private or religious school that offers instruction in pre-school, including other businesses permitted as a school by the Town of Rutland or any of grades K through, and including, 12. This definition shall not include private residences in which students are taught by parents or tutors.
- G. "Sex offender" means a person who is convicted of a sex offense against a minor as defined in 13 V.S.A. § 5401(10)(B).

III. RESIDENCY PROHIBITION

A sex offender shall not establish a residence or any other living accommodations, whether permanent or temporary on a property located in whole or in part in the Town of Rutland for which any portion of the property line falls within the protection zone of a protected property. The protection zone for purposes of this residency prohibition shall be measured from the nearest property line of the protected property to the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence of the sex offender is located.

IV. PROHIBITION OF SEX OFFENDER FROM BEING AT PROTECTED PROPERTY

- A. A sex offender shall not be present at or on any protected property. If a law enforcement officer reasonably believes that a person present at or on a protected property is a sex offender, the suspected sex offender shall provide his/her name, address, and telephone number to the law enforcement officer upon request. If the law enforcement officer confirms that the person is a sex offender, the officer shall issue a written warning that the person's presence at or on the protected

property violates this Ordinance and shall require the person to leave the protected property.

- B. If after receipt of a written warning issued pursuant to subsection A above, the sex offender refuses to leave the protected property, or is thereafter found present at any protected property in the Town of Rutland, the sex offender shall be in violation of Section IV of this Ordinance.

V. CONVICTION OF TOWN RESIDENT FOR SEX OFFENSE

A person that resides in the Town of Rutland within the protection zone of a protected property shall become in violation of this Ordinance upon the person's conviction of a sex offense that results in their qualification as a sex offender as defined by Section II G.

VI. NOTICE TO MOVE

- A. The Town may issue to a sex offender in the Town in violation of Sections III or V of this Ordinance a written notice to move within fifteen (15) days after receipt of the notice. The recipient of a notice to move shall, within fifteen days after receipt of the notice, move to a location outside the protection zone of any protected property.
- B. If a sex offender does not move to a location that complies with this Ordinance within fifteen days as directed by a written notice to move, each day after the expiration of the fifteen-day notice period shall be constitute a separate and distinct violation of this Ordinance.

VII. EXCEPTIONS

- A. The Residency Prohibition of Section III shall not apply to:
 - 1. A sex offender that resides in an established residence that is located within the protection zone of a protected property so long as the sex offender consistently maintains their residency on that particular property.
 - 2. The establishment or relocation of a protected property after the effective date of this Ordinance at or to a location within one thousand (1,000) feet of the existing residence of sex offender whose residency otherwise complies with this Ordinance, so long as the sex offender consistently maintains that residence.
 - 3. A sex offender incarcerated at the Marble Valley Regional Correctional Facility.
- B. The Presence Prohibition: Section IV shall not apply to a sex offender who enters upon a protected property that:

1. Also has located on it a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:
 - a. The sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
 - b. The sex offender does not participate in any religious education programs that include individuals under the age of 18.
2. Also supports a use lawfully attended by a sex offender's natural or adopted child(ren) and the child's use of the protected property reasonably requires sex offender's presence at or on the property as the child's parent, provided that the sex offender's entrance and presence upon the property occurs only during the hours of activity related to the use of the protected property as posted to the public.
3. Also supports a polling location in a local, state or federal election subject to all of the following conditions:
 - a. The sex offender is eligible to vote;
 - b. The property is the designated polling place for the sex offender; and
 - c. The sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and vacates the property immediately after voting.
4. Also supports a school lawfully attended by the sex offender as an enrolled student for such purposes and at such times as are reasonably required for the educational purposes of the school.
5. Also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
 - a. The sex offender is on the property only to transact business at the government office or place of business or attend an official meeting of a government body; and
 - b. The sex offender leaves the property immediately upon completion of that business or meeting.

VIII. ENFORCEMENT, VIOLATIONS AND PENALTIES

- A. A civil penalty of not more than \$500 may be imposed for a violation of this Ordinance. Each day that the violation continues shall constitute a separate violation of this Ordinance.
- B. The Administrative Officer of the Town, a Town Constable, and any other designee of the Board of Selectmen are authorized to recover by the issuance of a municipal complaint, civil penalties in the following amounts for each violation of this Ordinance:

First Violation	\$200
Second Violation	\$300
Third Violation	\$400
Fourth and Subsequent Violations	\$500

- C. In lieu of the civil penalties provided in subsection ___ of this section, an issuing municipal official is authorized to recover a waiver fee in the following amount, from any person to whom a municipal complaint is issued, who declines to contest the municipal complaint and pays the waiver fee:

First Violation	\$100
Second Violation	\$150
Third Violation	\$200
Fourth and Subsequent Violations	\$250

- D. In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Town of Rutland may pursue any remedy authorized by law, including without limitation, the maintenance of a civil action in superior court pursuant to 24 V.S.A. § 1974a(b) to obtain injunctive and other appropriate relief, including without limitation, a court order requiring that a sex offender move from a residence located within the protection zone of a protected property.

IX. SEVERABILITY

The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any person or circumstances or within any part of the Town of Rutland is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalidity shall not apply to any other portion of this Ordinance which can be given effect without the invalid provision or application thereof.

X. EFFECTIVE DATE.


This Ordinance shall become effective sixty (60) days after adoption as provided in 24 V.S.A. § 1972.

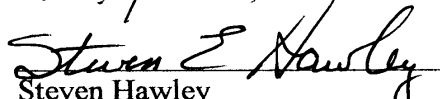
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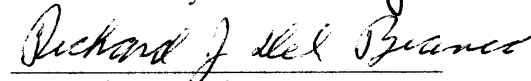
This Child Safety Ordinance is hereby adopted this 23rd day of November, 2008.

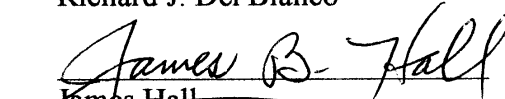
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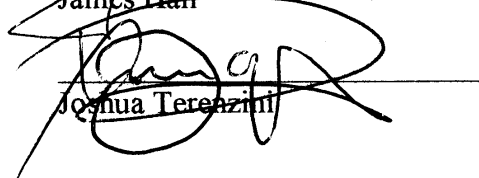
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