

Proposed Local Law No. 2 of 2010

Sex Offender Residency and Proximity Restrictions

**A LOCAL LAW ESTABLISHING RESIDENCY AND PROXIMITY RESTRICTIONS IN
THE COUNTY OF CHENANGO FOR SEX OFFENDERS WHO HAVE COMMITTED
CRIMINAL OFFENSES AGAINST MINORS**

Be it enacted by the Board of Supervisors of the County of Chenango as follows:

SECTION I. **Intent and Purpose.**

- A. The highest priority of government is the safety and protection of its residents, especially its children. The County of Chenango has had placed in its borders a number of registered sex offenders, some of whom have committed criminal sexual offenses against minors. A number of these sex offenders have been categorized as Level II Sex Offenders who have been determined to pose a moderate risk of committing another sexual crime under the Corrections Law of the State of New York. A number of these sex offenders have been categorized as Level III Sex Offenders who have been determined to pose a high risk of repeat offense and a threat to the public safety under the Corrections Law of the State of New York.
- B. This Board of Supervisors finds and determines that it is essential that Chenango County government makes every effort to protect children from such sex offenders including establishing more protection for children than is afforded by existing New York State laws.
- C. This Board of Supervisors further finds and determines that it is in the best interests of Chenango County citizens to establish residency and proximity restrictions for sex offenders who have committed criminal sexual offenses against minors.

SECTION II. **Definitions.**

- A. The term "camp" shall mean a children's overnight camp as defined in section one thousand three hundred ninety-two of the public health law, as amended, or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law as amended.
- B. The term "child" or "children" shall mean persons less than eighteen (18) years of age.
- C. The term "county park" shall mean Cook Park in the Town of Greene owned by the County of Chenango.

- D. The term "daycare center" shall mean those establishments where care for a child is provided on a regular basis away from the child's residence, as defined by Section 390 of the New York State Social Services Law as amended.
- E. The term "minor" shall mean persons less than eighteen (18) years of age.
- F. The term "park" shall mean active and passive public land designated for recreational or athletic use by the United States of America, the State of the New York, the County of Chenango, the City of Norwich, or any town, village or other governmental subdivision located within the County of Chenango and, for the purposes of this local law, the term "park" shall also include public beaches.
- G. The term "playground" shall mean land designated for recreational or athletic purposes by the United States of America, the State of New York, the County of Chenango, the City of Norwich, or any town, village or other government subdivision located within the County of Chenango.
- H. The term "school" means an institution for teaching children or establishment for imparting education and shall include any portion of public or private land, buildings, structures, or vehicles utilized for such purposes as defined by the New York State Department of Education and/or the New York State Education Law as amended.
- I. The term "sex offender" includes any person who is convicted of any of the offenses set forth in subdivision two, three or seven of Section 168-a of the New York State Correction Law, as amended, and has received a "level two" (Level II) or "level three" (Level III) designation under Article 6-C of the New York State Correction Law as amended.
- J. The term "residence" shall mean the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

SECTION III. Restrictions on Residency.

- A. It shall be unlawful for a sex offender to establish residence or domicile within a radius of five hundred (500) feet, measured from the nearest property line, of any land utilized as a camp, daycare center, park, playground or school.
- B. Exemptions. The Provisions of this article shall not apply to a sex offender under the following circumstances:
 - i. If the sex offender has acquired an ownership interest in such real property prior to the effective date of this local law said sexual offender shall not be prohibited from continued residency within said certain real property;
 - ii. If the sex offender has established a residence as a tenant upon such real property prior to the effective date of this Local Law, pursuant to the terms of a written lease, said sex offender shall be allowed to remain in such tenancy

- during the term of a written lease but shall not renew or otherwise extend (either orally or in writing) said lease beyond the initial term of same;
- iii. If a camp, daycare center, park, playground or school is newly located after the effective date of this local law and the sex offender has already established a residence within a distance from the new facility which is prohibited by this local law. If said residence is established pursuant to the terms of a written lease, said sex offender shall be allowed to remain in such tenancy during the term of a written lease but shall not renew or otherwise extend (either orally or in writing) said lease beyond the initial term of same;
 - iv. If the sex offender is required to reside at a location fixed by order of a court of competent jurisdiction, or by any federal, state or county agency having jurisdiction thereof and residency at such location would otherwise violate this Local Law.
 - v. If the sex offender is serving a sentence of parole or probation.

C. Notice.

- i. Notification of this Local Law, and of the prohibitions contained herein, shall be made by the Local Law Enforcement Agencies having jurisdiction or the Chenango County Sheriff Office or any entity or person designated by the Sheriff to do so, to each Level II and Level III Registered Sex Offender, now residing, or in the future residing, within the County of Chenango. The Notice shall be in a form and manner acceptable to the Sheriff of Chenango County. Every reasonable effort shall be made to deliver such Notice in writing by either (1) certified mail, return receipt requested, and regular mail to the last known address of the intended recipient or (2) by personal delivery. Notwithstanding the foregoing, failure to give or receive such Notice shall not be a defense to an alleged violation of this Local Law.
- ii. A sex offender who resides in an area prohibited by this Local Law shall permanently discontinue such residence within thirty (30) calendar days of (1) the enactment of this Local Law or (2) conviction of an offense and classification as a sex offender pursuant to this Local Law, whichever first occurs, unless he or she qualifies for an Exemption set forth in "B" above and he or she obtains a written statement from the Local Law Enforcement Agency having jurisdiction or by the Sheriff or his authorized agent within such thirty (30) days certifying that one or more of such exemptions apply to him or her.
- iii. Proof that a sex offender has complied with the provisions of this Local Law shall be provided by the sex offender in writing to the Law Enforcement Agency having jurisdiction or the Sheriff of Chenango County within fifteen (15) days. Such proof shall include the residency address to which the sex offender has relocated.
- iv. In the event a sex offender fails, refuses and/or neglects to relocate and otherwise comply with the provisions of this Local Law, he or she shall be in violation hereof and each day of violation shall be a separate offense.

- v. The Local Law Enforcement Agencies having jurisdiction and/or the Sheriff of Chenango County shall take such steps as he deems appropriate to notify law enforcement agencies, municipal entities, schools, camps, daycare centers, agencies having contact with sex offenders, and the general public within Chenango County of the existence of this Local Law and the provisions hereof.

SECTION IV. **Restrictions on Entry Upon Cook Park.**

- A. No Level II or Level III sex offender shall enter or remain in or upon Cook Park or any lands or waters thereof.
- B. Appropriate signage shall be posted at Cook Park in one or more conspicuous places notifying the public of the restrictions of this Local Law. Such signs shall in substance state the following: "Notice: Pursuant to Local Law, it is illegal for any Level II or Level III sex offender to enter or remain in or upon this park. Your violation of this local law may subject you to prosecution and punishment, up to and including a fine and imprisonment."
- C. Each day, or part thereof, such violation continues following notification under this local law, shall constitute a separate offense, punishable in a like manner.

SECTION V. **Penalties for Violations.**

- A. Any violation of this Local Law shall be deemed to be an offense and any person adjudged guilty of violating this Local Law shall be liable for such violation and the penalty therefore, and shall, upon conviction thereof, be subject to a fine of not less than Two Hundred Fifty Dollars (\$250.00) and not more than Two Thousand Five Hundred Dollars (\$2,500.00) per offense, together with a sentence of imprisonment of up to fifteen days per offense.
- B. Each day, or part thereof, such violation continues under this Local Law, shall constitute a separate offense, punishable in a like manner.

SECTION VI. **Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any Court of competent jurisdiction, to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION VII. **Effective Date.**

This local law shall take effect immediately upon filing with the secretary of state in accordance with Section 27 of the Municipal Home Rule Law.