

Falmouth Police Department

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The proposed *Ordinance to Restrict the Place of Residence of Convicted Sex Offenders* is in response to legislation passed on September 12, 2009 that places a limitation on the distance from a school, daycare, etc. that a town can use to restrict a convicted sex offender (a person convicted of a Class A, B, C, sex offenses committed against a person under the age of 14) from living.

Prior to September 12, 2009 many town were establishing unrealistic distances that prohibited where a sex offender could live in relation to a school, daycare, etc. This legislation was enacted to set a maximum limit (750') that a town could impose.

The State law (Title 30-A, section 3014 – copy attached) states that a town must have an ordinance in place to enforce this legislation. It also states that we “may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance.”

In other words we need this ordinance in place to prevent convicted sex offenders from moving into these areas. The ordinance that we are requesting is the enforcement mechanism that we need to manage the areas around the schools.

Currently the town does have an ordinance in place related to sex offenders.

**Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL
1987, C. 737, PT. A, §2 (NEW)
Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)
Subpart 4: ORDINANCE AUTHORITY AND LIMITATIONS HEADING: PL
1987, C. 737, PT. A, §2 (NEW)
Chapter 141: ORDINANCES HEADING: PL 1987, C. 737, PT. A, §2
(NEW)**

§3014. Ordinances regarding residency restrictions for sex offenders

(REALLOCATED FROM TITLE 30-A, SECTION 3013)

1. Application and scope. The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not

imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

[RR 2009, c. 1, §21 (RAL) .]

2. Residency restriction ordinance. A municipality may adopt an ordinance regarding residency restrictions for 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. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees. [RR 2009, c. 1, §21 (RAL) .]

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users. [RR 2009, c. 1, §21 (RAL) .]

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance. [RR 2009, c. 1, §21 (RAL) .]

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15. [RR 2009, c. 1, §21 (RAL) .]

[RR 2009, c. 1, §21 (RAL) .]

SECTION HISTORY

RR 2009, c. 1, §21 (RAL) .