

**IN THE YEAR TWO THOUSAND AND TEN AN ORDINANCE AMENDING
THE ORDINANCE PERTAINING TO SEX OFFENDER RESIDENCY
RESTRICTIONS IN THE CITY OF LYNN**

SECTION 1:00 Findings.

A. The City of Lynn recognizes that it has a compelling interest in protecting children from the threat of sexual abuse; and

B. Due to a child's vulnerability, the City Council is compelled to take a protective role by adopting laws that are designed to protect the City's children from registered sex offenders; and

C. Registered sex offenders continue to reside in close proximity to public and private schools, parks and playgrounds; and

D. Without adequate protective ordinances at the local level, registered sex offenders will continue to move to buildings, apartments, domiciles or residences in close proximity to schools, parks and playgrounds; and

E. The City of Lynn wishes to protect children in the educational and recreational environment.

SECTION 2:00 Intent.

A. The Lynn City Council finds that sex offenders pose a significant threat to the health and safety of the community and especially to children, whose age and inexperience makes them particularly vulnerable to the heinous and reprehensible acts of these offenders; and

B. The rate of recidivism among sex offenders is high. Limiting the frequency of contact between registered sex offenders and areas where children are likely to congregate reduces the opportunity and temptation, and can reduce the risk of repeated acts against children; and

C. After careful consideration, the Lynn City Council finds that this legislation is the most narrowly tailored means of limiting, to the fullest extent possible, the opportunity for registered sex offenders to approach or otherwise come in contact with children in places where children would naturally congregate, and that the protection of the health and safety of our children is a compelling governmental interest.

D. It is the intent of this ordinance to serve and protect the City of Lynn's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of Lynn by creating areas around locations where children regularly congregate

in concentrated numbers wherein certain registered sex offenders are prohibited from loitering and establishing temporary or permanent residence.

E. By the enactment of this or any other legislation, the City Council understands that it cannot remove the threat posed by registered sex offenders or guarantee the safety of children, or assure the public that registered sex offenders will comply with the mandates of this ordinance and state law relative to registration. This legislation is intended to create a civil, non-punitive regulatory scheme in order to protect children to the extent possible under the circumstances and not as a punitive measure of any kind.

F. Registered sex offenders pose a clear threat to the children residing and visiting in the community. Because registered sex offenders are more likely than any other type of offender to re-offend for another sexual offense, the Lynn City Council desires to impose safety precautions in furtherance of the goal of protecting children. The purpose of this regulation is to reduce the potential risk of harm to children of the community by impacting the ability of registered sex offenders to be in contact with unsuspecting children in locations that are primarily designed for use by, or are primarily used by children, namely, the grounds of their public or private school for children, a park, or other public recreational facility. The City of Lynn desires to add location restrictions to such offenders where the state law is silent.

SECTION 3:00 Definitions.

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

Registered Sex Offender. A person convicted of a criminal sex offense and designated as a Level 2 or 3 sex offender by the Massachusetts Sex Offender Registry Board pursuant to M.G.L. c. 6, §178C. The Board has determined that these individuals have a high risk to reoffend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification.

Sex Offender and *Sex Offense* shall have the same meaning as provided for in M.G.L. c. 6, §178C.

Child shall mean a person or persons under the age of eighteen (18) years of age.

School. A licensed or accredited public or private school or church school that offers instruction in pre-school or other business permitted as a school by the City of Lynn and/or the Commonwealth of Massachusetts, or any of grades K through 12.

Park includes active and passive public land designated for recreational or athletic use by the City of Lynn, the Commonwealth of Massachusetts or other governmental subdivision, and located within the city of Lynn.

Recreational Facility includes, but is not limited to, a playground, a forest preserve, conservation area, jogging or running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football field, basketball court or hockey rink.

Permanent Residence shall mean a place where a person lives, abides, lodges or resides for fourteen (14) or more consecutive days.

Temporary Residence shall mean a place where a person lives, abides, lodges or resides for a period of less than fourteen (14) consecutive days or fourteen (14) days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's Permanent Residence; but Temporary Residence shall not include residence at a hospital or other healthcare or medical facility for less than fourteen consecutive days or fourteen (14) days in the aggregate during any calendar year.

Establishing a Residence shall mean to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written extension or automatic renewal).

SECTION 4:00. Residency Restrictions.

A. Prohibition. A Registered Sex Offender is prohibited from establishing a Permanent or Temporary Residence within one thousand (1,000) feet of any School or Park in the City of Lynn.

B Evidentiary matters, measurements. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the Permanent or Temporary Residence to the nearest outer property line of any School or Park.

C. Exceptions. A Registered Sex Offender residing within one thousand (1,000) feet of any School or Park does not commit a violation of this section if any of the following apply:

1. The Registered Sex Offender established a Permanent Residence prior to the effective date of this ordinance, and
 - a. Permanent Residence was established by purchasing the real property where the residence is established, or
 - b. Permanent Residence was established through a valid, fixed term, written lease or rental agreement, executed prior to the effective date of this ordinance, whose term has not yet expired.
2. The Registered Sex Offender is a minor.

3. The Registered Sex Offender is residing with a person related by blood or marriage within the first degree of kindred within the City of Lynn.
4. The School or Park within one thousand (1,000) feet of the Registered Sex Offender's Permanent Residence was opened after the Registered Sex Offender established the Permanent Residence.

D. Notice to move. A Registered Sex Offender who resides on a permanent or temporary basis within one thousand (1,000) feet of any School or Park shall be in violation of this section, and shall, within thirty (30) days of receipt of written notice of the Registered Sex Offender's noncompliance with this ordinance from the City Solicitor's Office, move from said location to a new location, but said location may not be within one thousand (1,000) feet of any School or Park. It shall constitute a separate violation for each day beyond the thirty (30) days the Registered Sex Offender continues to reside within one thousand (1,000) feet of any School or Park. Furthermore, it shall be a violation each day that a Registered Sex Offender shall move from one location within the City of Lynn to another that is within one thousand (1,000) feet of any School or Park.

SECTION 5:00 Child Safety Zones.

- A. Prohibitions.
 1. A Registered Sex Offender is prohibited from entering upon the premises of a School unless previously authorized specifically in writing by the school administration.
 2. A Registered Sex Offender shall not enter any Park or other private or public Recreational Facility when children are present and approach, contact, or communicate with any child present, unless the Registered Sex Offender is a parent or guardian of a child present in such Park or other private or public Recreational Facility.
 3. A Registered Sex Offender shall not loiter on or within one thousand (1,000) feet of any property in which there is a School, Park, or other private or public Recreational Facility. Under this section, "loiter" shall mean to enter or remain on property while having no legitimate purpose therefor, or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose. No person shall be in violation of this subsection unless he or she has first been asked to leave a prohibited location by a person authorized to exclude the Registered Sex Offender from the premises. An authorized person includes, but is not limited to, law enforcement officer, owner or manager of premises, or principal or teacher if the premises is a School.

B. Exceptions

1. The prohibitions defined in this section shall not be construed or enforced so as to prohibit a Registered Sex Offender from exercising his or her right to vote in any federal, state or municipal election, or from attending any religious service.
2. The prohibitions defined in this section do not apply to a Registered Sex Offender's place of residence when such residence is excepted under this ordinance.

SECTION 6:00 Enforcement.

A. The City of Lynn Police Department shall be charged with enforcement of this Ordinance with exception of the Notice to Move which shall be sent by the City Solicitor's Office.

B. A map depicting the prohibited areas shall be created by the Inspectional Services Department and maintained by the City Clerk's Office. The map and copy of this ordinance shall be available to the public at the City Clerk's Office and on the City of Lynn's website.

SECTION 7:00 Penalties.

A. Any violation of this Ordinance shall result in: (1) a non-criminal fine of \$300.00 for a first violation; (2) a non-criminal fine of \$300.00 for each additional violation of this provision. A Registered Sex Offender commits offense for each and every day a violation continues.

B. Any subsequent offense of this Ordinance by a Registered Sex Offender: Non-criminal fine of \$300.00 and notification to offender's landlord, parole officer and/or probation officer, and the Commonwealth of Massachusetts Sex Offender Registry Board that the Registered Sex Offender has violated a municipal ordinance.

SECTION 8:00 Inconsistent provisions.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 9:00 Severability.

If any of the provisions of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of said ordinance nor the application of such other provisions, which can be given effect without the invalid provisions or application thereof, and for this purpose the provisions of this ordinance are severable.

SECTION 10:00 Time of Effect.

This ordinance shall take effect thirty-one (31) days after its final approval as adopted and advertised.