

Town of Windham
Chapter 190
Residency Restrictions for Sex Offenders

Deleted: ###

Section 1: Authority

This ordinance is enacted pursuant to Title 30-A M.R.S.A, section 3014, and is intended to be coextensive with the maximum residency restrictions permitted by Title 30-A M.R.S.A, section 3014.

Deleted: . This ordinance

The Planning Department with the assistance of the Police Department shall prepare, maintain, and file with the Town Clerk an official map showing prohibited locations as defined by this ordinance. The Planning Department will update the map at least annually to reflect any changes in the locations of any Restricted Property and Setbacks and file the updated map with the Town Clerk.

Section 2: Definitions

- A. Designated Sex Offender(s) - Person(s) 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
- B. Property Owner – Property owner means the person owning real estate affected by this ordinance as shown by the current tax maps on file in the office of the Town Assessor or the records at the Cumberland County Registry of Deeds.
- C. 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.
- D. Restricted Property – The real property comprising:
1. A public or private elementary, middle, or secondary school.
 2. A municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users.
 3. A municipally owned property or state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreation facility that is open to the public where children are the primary users. For the purposes of this ordinance, Restricted Properties are as set forth in Section 6.
- E. Setback - A 750-foot radius surrounding the “Restricted Property.”

Deleted: <#>Setback - A 750-foot radius surrounding the “Restricted Property.” ¶

Deleted: a

Deleted: The real property comprising a

Deleted: See Section 6 Restricted Property

Section 3: Restrictions

- A. No Designated Sex Offender shall reside within a 750-foot Setback of any Restricted Property. This prohibition shall apply if any portion of the property on which a Designated Sex Offender resides falls within the Setback.
- B. No Property Owner may lease, rent, or allow residential use of real property by a Designated Sex Offenders within the 750-foot Setback from any Restricted Property.

Section 4: Exceptions

- A. A Designated Sex Offender maintaining a residence within the Setback from Restricted Property is not in violation if the residency was established and consistently maintained as a residence prior to the date of passage of this ordinance. A Designated Sex Offender is not in violation of this ordinance if the Restricted Property is created, moved or enlarged which results in a Designated Sex Offender residing within the Setback as long as the residency was in place and consistently maintained prior thereto.
- B. A Property Owner leasing or renting a residence for use by a Designated Sex Offender within the Setback of a Restricted Property is not in violation if the residence was established and consistently maintained as a residence prior to the date of passage of this ordinance. A Property Owner is not in violation of this ordinance if the Restricted Property is created, moved or enlarged which results in a Designated Sex Offender residing in the Setback as long as the residency was in place prior to the creation, movement or enlargement and the residency has been consistently maintained.

Deleted: residence

Deleted: in a

Deleted: residence

Section 5: Violation; injunctive relief and penalties

- A. A Designated Sex Offender who, thirty (30) days after written notice from the Town of Windham, remains in violation of this Ordinance shall be subject to an action brought by the Town of Windham to enforce the requirements of this ordinance. The Town of Windham may seek injunctive relief to require compliance with the provisions of this ordinance.

Deleted: is

Deleted: Section 3, subsection A of

The Town of Windham may also seek a penalty in the minimum amount of \$500.00 per day, for each day of violation of Section 3 of this Ordinance after thirty (30) days. In the event the Town of Windham is the prevailing party in any action under this Ordinance, 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 of Windham.

Deleted: is

- B. Property Owners who, thirty (30) days after written notice from the Town of Windham, have not taken reasonable action to terminate the residency of a Designated Sex Offender within the Setback from a Restricted Property shall be subject to an action brought by the Town of Windham to enforce the requirements of this ordinance. The Town of Windham may seek injunctive relief to require compliance with the provisions of this ordinance.

Deleted: lease or rent any residence to a

The Town of Windham may also seek a penalty in the minimum amount of \$500.00 per day, for each day of violation of Section 3, subsection B of this Ordinance after thirty (30) days. In the event the Town of Windham is the prevailing party in any action under this Ordinance, 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 of Windham.

Section 6: Restricted Property

The following properties are designated as Restricted Properties ~~for the purposes of this ordinance:~~

Deleted: because children are the primary users

A. Schools

1. Windham Primary School
2. Windham Middle School
3. Windham High School
4. Windham Manchester School
5. Windham Christian Academy

B. Municipally or Privately Owned Recreation Facilities

1. Donnabeth Lippman Park
2. Dundee Park
3. Windham Town Hall Playground
4. Lowell Preserve Playground and Ballfield
5. Windham Community Park
6. Lincoln Field